

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report Summary**

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee  
Hon. Elihu M. Berle, Chair  
Case Management Subcommittee,  
Hon. Arthur E. Wallace, Chair  
Patrick O'Donnell, Committee Counsel, 415-865-7665,  
patrick.o'donnell@jud.ca.gov

DATE: October 8, 2003

SUBJECT: Trial Settings, Continuances, and Case Disposition Time Standards:  
Recommendations to Improve the Fair and Efficient Administration  
of Civil Cases (adopt Cal. Rules of Court, rules 204 and 375.1;  
amend Cal. Rules of Court, rules 208, 209, 212, and 375; amend Cal.  
Std. Jud. Admin., §§ 2 and 2.1; and repeal Cal. Std. Jud. Admin.,  
§§ 2.3, 2.4, and 9) (Action Required)

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Issue Statement

This report submits the recommendations of the Civil and Small Claims Advisory Committee regarding the proposals of the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases. The committee generally supports the proposals, but recommends some modifications.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council adopt the Blue Ribbon Panel's proposals regarding rules and standards, with the modifications described in this report, effective January 1, 2004, by:

1. Amending rule 212 of the California Rules of Court to include explicit criteria for setting civil cases for trial;
2. Amending rule 375 of the California Rules of Court, adopting rule 375.1, and repealing section 9 of the California Standards of Judicial Administration to provide a clear and practical good cause standard for granting continuances of trial dates; and

3. Adopting rule 204 of the California Rules of Court, amending rules 208 and 209, amending sections 2 and 2.1 of the California Standards of Judicial Administration, and repealing sections 2.3 and 2.4, to improve the rules on trial delay reduction and to modify the goals for case disposition times of certain civil cases to make these goals more realistic and practical.

The text of three sets of proposed changes to the rules and standards, as proposed by the panel and modified by the advisory committee, is attached to the report at pages 23–46.

### Rationale for Recommendation

#### *Background: The Blue Ribbon Panel*

On February 17, 2003, Chief Justice Ronald M. George appointed the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases. The panel was chaired by Richard D. Aldrich, Associate Justice of the Court of Appeal, Second Appellate District. It was composed of a distinguished group of experts in the fields of civil procedure and practice and of court administration.

Chief Justice George charged the panel with providing its perspectives and recommendations to the Judicial Council on the following questions:

1. Are civil cases in the trial courts currently being managed so as to promote both efficient case resolutions and the fair treatment of parties and counsel?
2. Should the Judicial Council change civil case procedures and practices to promote more timely resolution of cases?
3. Should the Judicial Council change civil procedures and practices to facilitate the granting of reasonable requests for time extensions and other litigation accommodations to parties and attorneys, as appropriate to achieve the fair administration of civil cases?

The Blue Ribbon Panel met on April 9, 2003, in Burbank; on May 19, 2003, in San Francisco; and on June 5, 2003, by telephone. At those meetings, the members discussed a number of major issues that presently concern attorneys and courts involved in civil cases.

The panel focused on addressing problems that have arisen in connection with the implementation of the Trial Court Delay Reduction Act. The act was enacted on a pilot basis in the 1980s and extended to all civil cases in the early 1990s. The Trial Court Delay Reduction Act was a response to serious problems of trial court

delay that were impeding public access and eroding confidence in the courts. In the 1980s, many civil cases were taking up to five years to get to trial, and many courts had large backlogs of civil cases waiting for trial.

The implementation of the trial court delay reduction program has been a success in many respects. Currently, trial dates are generally firm and civil case backlogs have been eliminated. As a result of the delay reduction program, the time from filing to disposition of civil cases has been significantly reduced. By fiscal year 2001–2002, 65 percent of unlimited cases and 85 percent of limited cases in California were disposed of within a year.<sup>1</sup>

But the Blue Ribbon Panel felt that the very success of trial court delay reduction has resulted in problems. For instance, in order to implement trial delay reduction, some courts have concluded that virtually all civil cases must be set for trial within one year. Panel members were concerned that courts using this approach were managing cases inflexibly and were refusing to grant continuances of trial dates even when the circumstances warranted giving the parties more time. Panel members were concerned, more generally, that some courts were being too rigid in their approach to setting cases for trial, considering motions for continuances, and allowing a sufficient amount of time for the disposition of civil cases.

While no one on the panel wanted to return to the situation that existed in the 1980s, with large backlogs and substantial delays in getting to trial, members believed that the present situation should be improved and that certain changes should be made to the California Rules of Court and Standards of Judicial Administration.

#### *The Panel's proposals*

The Blue Ribbon Panel discussed at length whether there was a problem with the current rules and standards or with how these were being applied. The members agreed that both were a problem. They concluded that there is a need to revise rules and standards *and* to provide additional education to judges on applying the rules and standards more flexibly.

The Blue Ribbon Panel developed the following proposals for improving the rules and standards:

- Amend rule 212 of the California Rules of Court to provide more specific criteria for judges to apply in setting trial dates.

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<sup>1</sup> Judicial Council of California, *2003 Court Statistics Report: Statewide Caseload Trends, 1992–1993 Through 2001–2002*, Table 6, page 52.

- Amend rule 375 on continuances of trial dates to provide a clear, practical good cause standard, and repeal the current standard regarding continuances in section 9 of the California Standards of Judicial Administration.
- Amend rules and standards on trial court delay reduction, differential case management, and case disposition times to provide a more flexible approach to managing civil cases in a fair and efficient manner.

#### *The Civil and Small Claims Advisory Committee's review*

The Civil and Small Claims Advisory Committee reviewed the proposals and the public comments. It generally supports the proposals, but based on the comments recommends a number of changes to the proposed rules and standards.

#### Alternative Actions Considered

In the course of reviewing the Blue Ribbon Panel's proposals and the public comments, the Civil and Small Claims Advisory Committee considered various alternatives to the proposals that were circulated. As discussed below, the committee agreed with some of these and not with others.

#### Comments From Interested Parties: General

The Blue Ribbon Panel's proposals were specially circulated as three separate proposals concerning: (1) trial setting and case management (SP03-09); (2) motions and applications for continuances (SP03-10); and (3) differential case management rules and the time standards for the disposition of cases (SP03-11).

#### *Comments on proposal SP03-09*

A total of 114 comments were received on the proposal to amend rule 212, the principal rule in civil case management. The Blue Ribbon Panel's main proposal regarding this rule was the addition of a new subdivision (j) providing express criteria for setting trial dates. Most commentators and the committee supported the adoption of this provision.

There were a number of comments on the proposed new last sentence of rule 212(b)(4) that stated: "Whenever it is fair and practical, the court should consider waiving the requirement of an appearance." The committee reviewed the entire subdivision and concluded that this additional sentence was not necessary because the rule already provides that the court may notify the parties that no appearance is necessary.

There were also a number of comments on the proposed amendments to rule 212(c). The Blue Ribbon Panel's proposal would divide subdivision (c) into two parts. The first paragraph (entitled, "Special order or request for a case management conference") contained existing subdivision (c); and a new paragraph

(2) (entitled, "No unnecessary conferences") was added. This second paragraph stated that parties must not be required to appear at case management conference unnecessarily. The new subpart also stated that, in determining whether to hold additional conferences, the court must consider each case on its merits.

The advisory committee recommends combining the two paragraphs into a single provision regarding additional case management conferences. The committee agreed with commentators that the proposed language in subdivision (c)(2) prohibiting courts from requiring parties to appear unnecessarily was not appropriate as stated; instead, it recommends that the rule be amended to state that a "party should be required to appear at an additional [case management] conference only if an appearance is necessary for the effective management of the case." The committee also recommends including in rule 212(c) the Blue Ribbon Panel's proposed sentence: "In determining whether to hold a conference, the court must consider each case individually on its own merits." The committee believes that its revised language for rule 212(c) properly balances the concerns of the Blue Ribbon Panel with those of the commentators on this rule.

#### *Comments on proposal SP03-10*

A second major set of proposals of the Blue Ribbon Panel was to amend rule 375 on continuances and to repeal section 9 of the Standards on this subject. A total of 75 comments were received on the proposal. There was strong support for this proposal, although there were some suggestions for modifications. The committee recommends the amendment of the rule, with a few modifications, and the repeal of the standard.

#### *Comments on proposal SP03-11*

The Blue Ribbon Panel's third set of proposals concerned the adoption of rule 204 (on the construction of the case management rules); the amendment of rule 209 (on differentiation of cases to achieve case time differentiation goals); and amendments to the standards on case time disposition. A total of 73 comments were received on this set of proposals. Most of the comments were favorable.

Proposed rule 204 states that all the rules in the chapter of the California Rules of Court on civil case management "are to be construed and administered to secure the fair, timely, and efficient disposition of every civil case." This new rule also provides that case management rules are "to be applied in a fair, practical, and flexible manner so as to achieve the ends of justice." Few comments were received on rule 204. The Blue Ribbon Panel strongly supported adoption of new rule 204 and the committee recommends its adoption.

The Blue Ribbon Panel also regarded the amendment of rule 209 in case differentiation to be important. The proposed amendment of rule 209 would

eliminate the current scheme of assignment of cases to plans and provide instead that most cases be assigned to the case management program for review under rule 212. The panel proposed including directly in rule 209 the modified civil case time disposition goals for unlimited civil cases that would provide that 75 percent of such cases should be disposed of within 12 months after filing, 85 percent within 18 months, and 100 percent within 24 months. Although there were not many specific comments in the amendment of rule 209, commentators generally supported this change.

While few commentators focused directly on either rules 204 or 209, a number commented on the proposed amendment to section 2.1 of the Standards of Judicial Administration, which would change the case time disposition standards for unlimited civil cases. One court was especially concerned about the proposed change in the case time disposition standard for unlimited civil cases from the present goal of disposing of 90 percent of such cases within 12 months after filing to 75 percent.

The committee considered the arguments presented for preserving the current standards and concluded that these standards should be modified as proposed by the Blue Ribbon Panel. First, there are reasons to conclude that the present standard is too high. After more than a decade of trial delay reduction, only 65 percent of unlimited civil cases are disposed of within 12 months. Recent legal developments, including the longer notice period for summary judgment motions, may require more time for cases to be ready for trial. Second, the proposed changes in the standard are tailored to address the specific problem identified by the Blue Ribbon Panel, i.e., that unlimited civil cases are sometimes being set arbitrarily for trial under the current standards at one year from filing when a longer time is needed. The proposed change to section 2.1 that raised the court's concern would apply only to *unlimited* civil cases; the standard for limited civil cases and most other types of cases would remain unchanged. And only the case time disposition goals for disposing of unlimited civil cases within 12 and 18 months would be modified; the goal for disposing of 100 percent of unlimited civil cases within 24 months would remain unchanged. Thus, the proposal preserves the long-term goal of disposing of all unlimited civil cases within two years.

The reduction of the goal for disposing of unlimited cases from 90 percent to 75 percent is warranted because it should reduce the pressure experienced by some courts to set most unlimited cases automatically for trial within 12 months. The modified standard for unlimited civil cases—especially when combined with the case-by-case review prescribed by rules 209 and 212—will insure that each case is appropriately set for trial. The modified standard and the rules will clarify that the 75 percent goal is an overall *goal* for all cases and that each case needs to be addressed individually on its own merits. The amended standards and rules will

preserve the policy of encouraging the prompt disposition of each individual case by providing that "each case should be set for trial as soon as appropriate for that individual case under rule 212(j)." (See amended rule 209(b)(3) and section 2.1(f)(3).)

In short, the committee regards the proposed amendments to the rules and standards not as weakening the case management process, but as improving it by making it more flexible and focused on the needs of each individual case.

#### Implementation Requirements and Costs

The adoption of the Blue Ribbon Panel's three proposals, as modified, will require some implementation actions by the courts. In particular, courts presently using the current three plan scheme or otherwise assigning most civil cases automatically to trial within one year of filing will be required to modify their case management procedures. The adoption of the proposals may require some judges to give greater attention to individual cases, which may necessitate the allocation of some additional judicial resources to civil cases, but it will also improve the overall fairness and efficiency of the case management process.

Attachments

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Issue Statement

This report submits the recommendations of the Civil and Small Claims Advisory Committee regarding the proposals of the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases. The committee generally supports the proposals, but recommends some modifications.

Background: The Blue Ribbon Panel

On February 17, 2003, Chief Justice Ronald M. George appointed the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases. The panel was chaired by Richard D. Aldrich, Associate Justice of the Court of Appeal, Second Appellate District. It was composed of a distinguished group of experts in the fields of civil procedure and practice and of court administration. The panelists included leaders in the judicial branch and prominent attorneys whose member organizations represent a broad range of plaintiffs and defendants involved in civil litigation in California.<sup>1</sup>

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<sup>1</sup> In addition to Justice Aldrich, the members of the Blue Ribbon Panel were Mr. Thomas J. Brandi, Ms. Mary Lou Des Rochers, Presiding Judge Donna J. Hitchens, Assistant Presiding Judge William A. MacLaughlin, Mr. Wayne Maire, Mr. Tony Stuart, Judge Arthur E. Wallace, and Mr. Walter M. Yoka.

Chief Justice George charged the panel with providing its perspectives and recommendations to the Judicial Council on the following questions:

1. Are civil cases in the trial courts currently being managed so as to promote both efficient case resolutions and the fair treatment of parties and counsel?
2. Should the Judicial Council change civil case procedures and practices to promote more timely resolution of cases?
3. Should the Judicial Council change civil procedures and practices to facilitate the granting of reasonable requests for time extensions and other litigation accommodations to parties and attorneys, as appropriate to achieve the fair administration of civil cases?

The Blue Ribbon Panel met on April 9, 2003, in Burbank; on May 19, 2003, in San Francisco; and on June 5, 2003, by telephone. At those meetings, the members discussed a number of major issues that presently concern attorneys and courts involved in civil cases.

The panel focused on addressing problems that have arisen in connection with the implementation of the Trial Court Delay Reduction Act. The act was enacted on a pilot basis in the 1980s and extended to all civil cases in the early 1990s. The Trial Court Delay Reduction Act was a response to serious problems of trial court delay that were impeding public access and eroding confidence in the courts. In the 1980s, many civil cases were taking up to five years to get to trial, and many courts had large backlogs of civil cases waiting for trial.

The implementation of the trial court delay reduction program has been a success in many respects. Currently, trial dates are generally firm and civil case backlogs have been eliminated. As a result of the delay reduction program, the time from filing to disposition of civil cases has been significantly reduced. By fiscal year 2001–2002, 65 percent of unlimited cases and 85 percent of limited cases in California were disposed of within a year.<sup>2</sup>

But the Blue Ribbon Panel felt that the very success of trial court delay reduction has resulted in problems. For instance, in order to implement trial delay reduction, some courts have concluded that virtually all civil cases must be set for trial within one year. Panel members were concerned that courts using this approach were

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Some of the panel's meetings were also attended by Mr. Bruce Brusavich, Mr. Michael Belote, Ms. Lea-Ann Tratten, and Ms. Alexandra Montgomery.

<sup>2</sup> Judicial Council of California, *2003 Court Statistics Report: Statewide Caseload Trends, 1992–1993 Through 2001–2002*, Table 6, page 52.

managing cases inflexibly and were refusing to grant continuances of trial dates even when the circumstances warranted giving the parties more time.

Panel members were concerned, more generally, that some courts were being too rigid in their approach to setting cases for trial, considering motions for continuances, and allowing a sufficient amount of time for the disposition of civil cases. They believed that judges were sometimes applying current rules and standards in an arbitrary or mechanical fashion. And some of these rules and standards were promoting the inflexible management of cases through to trial. As a result, the process of civil litigation has become more difficult and expensive.

While no one on the panel wanted to return to the situation that existed in the 1980s, with large backlogs and substantial delays in getting to trial, members believed that the present situation should be improved and that certain changes should be made to the California Rules of Court and Standards of Judicial Administration.

#### The Panel's Proposals

The Blue Ribbon Panel discussed at length whether there was a problem with the current rules and standards or with how these were being applied. The members agreed that both were a problem. They concluded that there is a need to revise rules and standards *and* to provide additional education to judges on applying the rules and standards more flexibly.

The Blue Ribbon Panel developed the following proposals for improving the rules and standards:<sup>3</sup>

- Amend rule 212 of the California Rules of Court to provide more specific criteria for judges to apply in setting trial dates.
- Amend rule 375 on continuances of trial dates to provide a clear, practical good cause standard, and repeal the current standard regarding continuances in section 9 of the California Standards of Judicial Administration.
- Amend rules and standards on trial court delay reduction, differential case management, and case time disposition to provide a more flexible approach to managing civil cases in a fair and efficient manner.

These proposals are described in detail below.

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<sup>3</sup> The proposals are divided, for the sake of clarity, into three sets: (1) First Proposal: Case Management Conferences and Trial Setting (SP03-09, pages 23–30); Second Proposal: Motions or Applications for Continuance of Trial (SP03-10, pages 31–36); and Third Proposal: Rules on Trial Delay Reduction and Differential Case Management and Standards for Case Time Disposition (SP03-11, pages 37–46).

### *Trial setting*

Rule 212 is the main rule concerning the management of civil cases. Under this rule, courts must review every general civil case—except those expressly exempted—no later than 180 days after the filing of the initial complaint. In most larger cases, courts hold a case management conference at which the case is assigned to alternative dispute resolution or assigned a trial date, and other important case management decisions are made.

The Blue Ribbon Panel developed a set of three proposals regarding rule 212. First, it recommended modifying the rule to clarify that the initial case management conference should be the first major event by court order in each case except for orders to show cause. The panel believed this provision was needed because some courts have been holding early status conferences and later separate case management conferences. Requiring multiple court appearances is burdensome and expensive for attorneys and the courts. Hence, the panel proposed amending rule 212(b)(1) to provide that the initial case management conference should generally be the first event at which an appearance is required.

Second, the panel recommended amending rule 212(c) to state that parties must not be required to appear unnecessarily at conferences. The panel also recommended adding a statement that, in most cases, one case management conference and one pretrial conference are sufficient. But the proposed rule would also recognize that, in complicated or difficult cases, the court may order parties to appear at additional case management conferences if that would promote the fair and efficient resolution of the cases. In determining whether to hold a conference, the court must consider each case on its individual merits.

Third, the panel proposed adding a new subdivision to rule 212 that provides express criteria to be considered by the court in setting a case for trial. (See amended rule 212(j).) The facts and circumstances that the court should consider in setting the case for trial include the type and subject matter of the action to be tried, whether the case has statutory priority, the complexity of the issues, and the amount of discovery, if any, that remains to be conducted in the case. In setting the trial date, the court should also consider its own calendar and the achievement of a fair, timely, and efficient disposition of the case. Finally, the panel agreed that the facts and circumstances to be considered by the court should include the trial dates proposed by the parties and their attorneys, and the professional and personal schedules of the parties and their attorneys, including any conflicts with previously assigned trial dates or other significant events.

Rule 212 would state that the criteria in new subdivision (j) for setting a case for trial apply not just at case management conferences, but at any proceeding at which a case is set for trial.

### *Continuances of trial*

The Blue Ribbon Panel's second set of proposals concerned continuances of trial dates. Currently, the main provisions regarding continuances are contained in rule 375 of the California Rules of Court and Section 9 of the California Standards of Judicial Administration. The Blue Ribbon Panel proposed several changes in the rules and standards relating to continuances.

First, the panel recommended that rule 375 be amended to become the basic rule on continuances of trial dates and that section 9 of the Standards of Judicial Administration be repealed. These changes are based on the conclusion that the current rule and standard appear to be too rigid and are causing problems.<sup>4</sup>

Second, the panel agreed that the policy that trial dates are firm should be retained. All parties and their counsel must regard trial dates as certain. (See amended rule 375(a).) This policy is fundamental to ensure the timely and efficient disposition of cases.

Third, the panel supported amending rule 375 to allow a request for continuance to be made by ex parte application under rule 379 as well as by noticed motion. (See amended rule 375(b).) This change recognizes that the need for requesting a continuance may arise on short notice, and requests for continuances should be resolved as expeditiously as possible. The amendment would make the procedures for requesting continuances more flexible.

Fourth, the panel recommended incorporating elements on granting a continuance from repealed section 9 of the standards into rule 375, but in a modified form. The reference to "emergencies" in section 9 would be eliminated. The catalog of matters in section 9 that should, under normal circumstances, be considered good cause for granting the continuance of a trial would be replaced. Instead of this catalog, which one panel member described as "mean and morbid," a simpler and broader list of the facts that may constitute good cause has been incorporated into the rule. (See amended rule 375(d).)

Fifth, the panel proposed amending rule 375 to include a new subdivision (e) to provide a list of other facts and circumstances to be considered by the court in determining whether to grant a continuance. These would include such matters as

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<sup>4</sup> Problems relating to the denial of continuances have recently been a major concern to members of the bar. See Rapattoni, "Fast Track Reforms Have Lawyers Reaching for the Egg Timer," *L.A. Daily Journal* (January 2, 2003).

the proximity of the trial date, the length of the continuance requested, the prejudice other parties or witnesses would suffer as a result of the continuance, the court's calendar, whether trial counsel is engaged in another trial, and whether all parties have stipulated to a continuance.

The panel supported adding a new subdivision (f) to rule 375 stating that, as provided under Code of Civil Procedure section 1024, the court may grant a continuance on the condition that the party requesting the continuance pay the expenses occasioned by the postponement.

The panelists recommended these amendments to rule 375 and the repeal of section 9 of the standards because they believed that the current law is problematic and that the proposed rule, combined with judicial education, would result in a fairer, less contentious process for deciding whether a case should be continued.

Finally, the panel supported moving rule 375(b), which governs motions to advance, specially set, or reset a case for trial, to a separate new rule 375.1. Like rule 375, the new rule would permit a party to request relief by means of an ex parte application as well as by noticed motion.

#### *Trial delay reduction and civil case management*

The Blue Ribbon Panel's third set of proposals concerned the rules and standards relating to trial delay reduction, differential case management, and case disposition time.

In particular, some panel members expressed a concern that some trial courts have been rigidly requiring that all civil cases be set for trial within one year after filing. This practice, especially when combined with the courts' reluctance to grant continuances, has made it difficult for attorneys to litigate complicated cases that cannot reasonably be prepared for trial within a year. More generally, the members expressed a concern that some courts were applying case management rules and time standards in an arbitrary fashion and were not considering the particular circumstances of each individual case.

The Blue Ribbon Panel recognized that these case management problems are complicated. To a significant extent, their solution will require that courts be more sensitive to and aware of the difficulties encountered by attorneys litigating cases. Improved judicial training and education are desirable. But the panel concluded that, in addition, changes to the current rules and standards would help reduce arbitrariness and improve civil case management.

### *1. Proposed changes in the rules*

The panel proposed several changes to the rules on case management and trial delay reduction. First, the panel proposed that a new general rule be adopted on the scope and purpose of the case management rules. New rule 204 would state that all the rules in the chapter of the California Rules of Court on civil case management "are to be construed and administered to secure the fair, timely, and efficient disposition of every civil case." This new rule would also state that case management rules are "to be applied in a fair, practical, and flexible manner so as to achieve the ends of justice." (See new rule 204.) The purpose of this preliminary rule is to provide direction to judges in construing and applying the case management rules.

Second, the panel proposed amending rule 208 on delay reduction goals to reflect, in its cross-reference to the Standards of Judicial Administration, that section 2.3 would be repealed and its contents incorporated into section 2.1.<sup>5</sup> (See amended rule 208(b).)

Third, and most significantly, the panel proposed modifying rule 209 on the differentiation of cases to achieve disposition time goals. Currently, rule 209(a) provides that after the court has evaluated each civil case under the criteria stated in rule 210,<sup>6</sup> the court must (1) assign each case to one of three management plans for disposition within two years after filing; (2) exempt the case as an exceptional case (i.e., as a complicated or complex case requiring more time for disposition); or (3) assign the case to a local case management plan for disposition within six to nine months (i.e., to a "super fast track"). Under current rule 209(a) and (b), courts generally assign most civil cases to one of three plans: plan 1 (for cases to be disposed of within 12 months of filing), plan 2 (for cases to be disposed of within 18 months), and plan 3 (for cases to be disposed of within 24 months). Under subdivision (c), courts are permitted by local rule to *presume* that a case is subject to the disposition goal under plan 1, i.e., disposition within one year. As a result, many civil cases, upon filing, are automatically assigned to plan 1 for disposition within a year.

The Blue Ribbon Panel identified the current automatic assignment of civil cases to plan 1 for disposition within one year as a significant problem. It concluded that this scheme is a source of the arbitrary assignment of many civil cases to unrealistic trial dates. In response to this problem, the Blue Ribbon Panel recommended that the current scheme of assigning civil cases to plan 1, 2, or 3 be replaced.

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<sup>5</sup> The proposed changes to the standards for case disposition times are discussed below.

<sup>6</sup> Rule 210, which would remain unchanged, lists the factors the court must consider in estimating the maximum time that will reasonably be required to dispose of each case in a just and effective manner.

Specifically, the panel proposed that rule 209(a) be amended and current subdivisions (b) and (c) be repealed. Under amended rule 209, instead of cases being assigned to plan 1, 2, or 3 at the time of filing, civil cases would generally be assigned to case management review under rule 212. At the time of the case management review, the trial court would review the statements submitted by the parties in each case, hold a conference if appropriate, and issue an order managing the case through to trial. This approach should reduce arbitrariness and promote the individualized treatment of every civil case based on its particular facts and circumstances.

The approach in new rule 209(a)(1) of assigning cases to review is consistent with, and would advance, the new civil case management rules adopted by the Judicial Council, effective July 1, 2002. Under these case management rules, trial courts should no longer be relying heavily on presumptions or classifications made the time a case was filed. Presently, all civil cases—except those expressly exempted—must be reviewed no later than 180 days from the date the initial complaint was filed. (Rule 212(a).) At the time of that review, courts have much more information about each individual case upon which to base decisions than they have at the time of filing. Accordingly, courts should be using the case management review process, rather than relying on any presumption made at the time the case is filed, to make decisions about trial dates and other important case management matters.

Notwithstanding these proposed changes to rule 209, the panel recognized that it is important that civil cases continue to be processed in a timely and efficient manner. To ensure that the goals of trial delay reduction continue to be pursued, a new subdivision (b) would be added to rule 209. This subdivision would state that cases assigned for review under rule 212 should be managed to achieve specified case disposition time goals.<sup>7</sup>

As under the present rules and standards, the goal for all general civil cases assigned to the program would continue to be disposition within two years of filing. But, as discussed further below, new rule 209(b) would provide slightly less rigorous case disposition time goals for unlimited civil cases than are currently provided in section 2.1 of the standards. The revised goals would provide that 75 percent rather than 90 percent of all unlimited civil cases should be disposed of within a year after filing. This modification should decrease the pressure on the courts to dispose of virtually all general civil cases within a year and give them more flexibility in assigning trial dates for unlimited civil cases.

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<sup>7</sup> As discussed below, changes would be made in the disposition time goals in both rule 209 and the related Standards of Judicial Administration.

The goals for disposition of limited civil cases would remain the same as under current section 2.3 of the Standards of Judicial Administration.

Finally, the panel recommended adding new paragraph (b)(3) to rule 209(b) that would clarify that the goals for civil cases in paragraphs (1) and (2) are goals for the courts' disposition of *all* cases filed as unlimited or limited civil cases in that court. Paragraph (3) provides that, in managing *individual* civil cases, the court must consider each case on its merits. The rule further states that, to enable the fair and efficient disposition of civil cases, each case should be set for trial as soon as appropriate, consistent with new rule 212(j) on trial setting. (Amended rule 209(b)(3).)

The proposed amendments to the case management and case differentiation rules may require some courts to change their case management and trial setting practices. But the Blue Ribbon Panel believed that such changes are warranted. The present rules and case disposition time standards, to some extent, foster inflexibility. The Judicial Council's adoption of new, more practical, and realistic rules and standards should promote the fair and efficient management of civil cases and reduce arbitrariness. The new and amended rules and standards would be consistent with the new case management rules adopted in 2002.

## *2. Proposed changes in the standards*

The Blue Ribbon Panel also proposed changes in the case disposition time standards that are currently contained in sections 2, 2.1, 2.3, and 2.4 of the California Standards of Judicial Administration.<sup>8</sup>

These standards have evolved during the past quarter century. The Judicial Council first adopted section 2 (Case flow management and delay reduction—statement of general principles) and section 2.1 (Superior court case-disposition time standards) under the Trial Delay Reduction Act in 1987. Based on the information that was available at that time, the council determined that it was premature to implement the American Bar Association's Standards Relating to

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<sup>8</sup> These standards were adopted under the Trial Court Delay Reduction Act, which provides in relevant part:

The Judicial Council shall adopt standards of timely disposition for the processing and disposition of civil and criminal actions. The standards shall be guidelines by which the progress of litigation in the superior court of every county may be measured. In establishing these standards, the Judicial Council shall be guided by the principles that litigation, from the commencement to resolution, should require only that time reasonably necessary for pleadings, discovery, preparation, and court events, and that any additional elapsed time is delay and should be eliminated.

(Gov. Code, § 68603(a).) The Trial Delay Reduction Act applies not only to unlimited but also to limited civil cases. (See Gov. Code, § 68620.)

Court Delay Reduction ("ABA Standards"). So it adopted standards that set liberal time goals in the early years (e.g., four years after filing, as of January 2, 1989) and progressively decreased the disposition time over a four-year period. The current case-disposition time standards in California, which are based on standard 2.52 of the ABA Standards for criminal and civil cases, became effective on July 1, 1991.<sup>9</sup>

Because the case disposition time standards have not been amended since 1994, they do not reflect trial court unification and other recent developments in the law. To modernize the standards, the Civil and Small Claims Advisory Committee in the beginning of 2003 developed a technical proposal to amend the standards, integrating the case disposition time standards in sections 2.1, 2.3, and 2.4 into a single standard that applies to the unified trial courts. The Blue Ribbon Panel incorporated the Civil and Small Claims Advisory Committee's changes into its own proposal. In addition, it recommended several other changes to the case disposition time standards.

The Standards of Judicial Administration currently provide that the goal of each court should be to manage all general civil cases from the time of filing so that (1) 90 percent are disposed of within 12 months, (2) 98 percent are disposed of within 18 months, and (3) 100 percent are disposed of within 24 months. These goals apply to both unlimited and limited civil cases. (See Stds. of Jud. Admin., §§ 2.1(h) and 2.3(b).)

These case disposition time standards are realistic for limited civil cases. By fiscal year 2001–2002, 88 percent of limited civil cases were disposed of within 12 months, 94 percent within 18 months, and 97 percent within 24 months. Hence, for limited civil cases, the goals in the current standards are practical and achievable. But the situation for unlimited civil cases is different. By fiscal year 2001–2002, the disposition rates for unlimited civil cases were only 65 percent of all cases disposed of within 12 months, 84 percent within 18 months, and 92 percent within 24 months.<sup>10</sup>

The Blue Ribbon Panel regarded the gap between the actual time being taken to dispose of unlimited civil cases and the goals stated in section 2.1 to be a problem. Panel members believed that some trial courts, in their efforts to achieve the 90

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<sup>9</sup> Subsequently, after extensive comment in 1991, the Judicial Council adopted the municipal and justice court time standards for criminal and civil cases in section 2.3, and these went into effect on January 1, 1991. The last time the principles of case management in section 2 were amended was effective January 1, 1994, to indicate that the presiding judge of each court should take an active role in advancing the goals of delay reduction and in formulating local rules and procedures to advance the timely disposition of cases. Section 2.3 was also amended at that time to change the time goals for the disposition of small claims cases to 90 percent within 70 days after filing and 100 percent within 90 days after filing.

<sup>10</sup>See footnote 2.

percent disposition rate set out in section 2.1 of the standards, were setting too many unlimited civil cases for trial within one year after filing. As a result, many cases for which such an early trial date were not appropriate were being given premature trial dates. This practice, especially when combined with the reluctance of some judges to grant continuances, was causing real difficulties for attorneys and their clients.

To remedy this situation, the panel concluded that section 2.1 of the standards should be modified. For limited civil cases, the current case disposition time goals were appropriate, should be retained, and should be incorporated into the revised standards. But for unlimited civil cases, the panel proposed that the standards be modified to provide that courts should manage these cases with the goals of disposing of (1) 75 percent of the cases within 12 months, (2) 85 percent within 18 months, and (3) 100 percent within 24 months. (See amended section 2.1.)

The panel believed that these goals would provide a more realistic benchmark for judges and courts setting unlimited civil cases for trial. The new goals would clarify that it is not necessary to set virtually all such cases for trial within a year. As a result, courts should have more flexibility in setting trial dates and attorneys should encounter fewer difficulties in preparing their cases for trial. At the same time, the new goals would still contain higher case disposition rates than most courts are currently achieving and so would continue to encourage the timely, efficient disposition of civil cases.

To clarify that the new case time disposition goals apply to the civil case management rules, the panel recommended that the revised goals for unlimited and limited civil cases be included not only in the standards, but also directly in rule 209 of the California Rules of Court. (See amended rule 209(b).)

Another proposed change to the standards would be to extend by five days in the goals for disposition of small claims cases (e.g., from 90 percent disposed of within 70 days of filing to within 75 days, and from 100 percent disposed of within 90 days of filing to within 95 days). The additional five days reflects the recent amendment of Code of Civil Procedure section 116.340(4)(b) that changed the time for service of a claim from 10 to 15 days before a hearing.

Some additional technical changes to the Standards that were originally proposed by the Civil and Small Claims Advisory Committee were supported by the panel. Because the time disposition standards have not been amended since 1994, they do not reflect trial court unification and other recent developments in the law. In section 2, subheadings would be added and the text updated to reflect the adoption of uniform statewide case management rules. The case disposition time standards in sections 2.1, 2.3, and 2.4 would be integrated into a single standard that applies

to all unified trial courts. And current section 2.3, which refers to municipal and justice courts, would be repealed.

The amended standards would also modify the criminal standards to indicate that the time is calculated from the time "after the defendant's first arraignment on the complaint" instead of "after the defendant's first court appearance."

Finally, the revised standards, unlike the existing standards, would list in detail the matters that remove a case from a court's control. The period while a case is removed from the court's control is excluded from the case disposition time standards.

#### The Civil and Small Claims Advisory Committee's Review

The Civil and Small Claims Advisory Committee reviewed the Blue Ribbon Panel's proposals. It preliminarily considered the proposals on July 23, 2003 and recommended that the proposals be circulated for public comment. The council's Rules and Projects Committee (RUPRO) approved a special circulation of the proposals, with the inclusion in the invitation to comment of a statement of concern about proposed new subdivisions (b)(4) and (c)(2) of rule 212. RUPRO objected that these provisions were unnecessary and would unduly limit the discretion of trial courts to hold case management conferences and require parties to appear.

The Civil and Small Claims Advisory Committee reviewed the proposals and the public comments on September 24, 2003. It generally supports the proposals, but based on the comments recommends a number of changes to the proposed rules and standards. The proposals, comments, and committee's recommendations are described below.

#### Alternative Actions Considered

The Blue Ribbon Panel considered a variety of alternatives to replacing the present differential case management scheme under which courts, at the time of filing, assign cases to plans 1, 2, or 3 and often presume that cases should be placed in plan 1 (for disposition within 12 months of filing). One of these alternatives was to preserve the provision directing courts to assign cases to plans, but amend rule 209(b) to provide ranges of case disposition times. A second alternative was to preserve the provision for assignment of cases to plans, but to amend subdivision (c) to replace the "presumption" that a case may be placed in plan 1 with a "provisional assumption" of such placement that must be reviewed and, if appropriate, modified in each case at the time of the case management conference conducted under rule 212.

After extensive discussions, the Blue Ribbon Panel concluded it would be better to eliminate altogether the scheme of assigning cases to one of three plans and the presumption that most civil cases may be assigned to a plan for disposition within one year. The panel thought it preferable—and more consistent with the new case management rules—for courts to assign all civil cases, except those explicitly exempted, to case management review under rule 212. Based on this review, courts should then set cases for trial and make other case management decisions tailored to the facts of each individual case. In making these decisions, the courts would be guided by the modified case disposition time goals for unlimited civil cases in rule 209(b).

In the course of reviewing the Blue Ribbon Panel's proposals and the public comments, the Civil and Small Claims Advisory Committee also considered various alternatives to the proposals that were circulated. These are discussed in the section below.

#### Comments From Interested Parties: General

The Blue Ribbon Panel's proposals were specially circulated as three separate proposals concerning: (1) trial setting and case management (SP03-09); (2) motions and applications for continuances (SP03-10); and (3) differential case management rules and the time standards for the disposition of cases (SP03-11). Each of these proposals, the comments, and the advisory committee's recommendations are discussed below.

#### Comments From Interested Parties: SP03-09

A total of 114 comments was received on the proposal to amend rule 212.<sup>11</sup> The commentators included judges, attorneys, the president of the Consumer Attorneys of California, the president of the California Defense Counsel, local bar associations, the Complex Litigation Committee of the State Bar's Litigation Section, and the Trial Court Presiding Judges and Court Executives Advisory Committees of the Judicial Council. There was substantial support for the proposal to amend rule 212, especially among attorneys. However, there were also some strong concerns expressed about certain proposed rule changes.

#### *Rule 212(a)*

The Blue Ribbon Panel and the advisory committee's only proposed amendment to subdivision (a) of rule 212 was a technical revision to include a reference to rule 243.8, exempting False Claims Act cases from the application of rule 212. There were no comments on this amendment.

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<sup>11</sup> A chart summarizing the comments on SP03-09 is attached at pages 47–122.

Commentators provided some suggestions for amending rule 212(a) in other respects; however, because these proposals were beyond the scope of the proposals circulated for comment, they will be considered by the advisory committee at a later time.<sup>12</sup>

#### *Rule 212(b)*

There were a number of comments on amended subdivisions (b)(1) and (b)(4) of rule 212. On subdivision (b)(1), some commentators noted that the phrasing of the new last sentence circulated for comment was problematic because there might be other events, such as a request for injunctive relief, that sometimes might properly precede the initial case management conference, but would not require an order to show cause. The committee agreed that the provision should be clarified and modified the sentence to add the word "generally" before "be" and "case management" before "event."

On subdivision (b)(4), a number of commentators were concerned about the proposed new last sentence that stated: "Whenever it is fair and practical, the court should consider waiving the requirement of an appearance." The committee reviewed the entire subdivision (b)(4) and concluded that this additional sentence was not necessary. The existing subdivision states that, if the court, based on the written submission of the parties and the other information available, determines that a conference is not necessary, it may issue a case management order and notify the parties that no appearance is required. Hence, the additional sentence is already covered.

#### *Rule 212(c)*

The proposed amendments to rule 212(c) generated a significant number of comments. The Blue Ribbon Panel's proposal divided subdivision (c) into two parts. The first paragraph (1) (entitled, "Special order or request for a case management conference") contained existing subdivision (c); and a new paragraph (2) (entitled, "No unnecessary conferences") was added. This paragraph stated that parties must not be required to appear at case management conference unnecessarily. The new paragraph also stated that, in determining whether to hold additional conferences, the court must consider each case on its merits. A number of commentators objected to the language of subdivision (c)(2).

The Civil and Small Claims Advisory Committee considered the proposed amendments to rule 212(c) at length. First, it concluded that the two paragraphs should be recombined into a single provision regarding additional case management conferences and that the first sentence from existing rule 212(c)

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<sup>12</sup> The Civil and Small Claims Advisory Committee intends to undertake a comprehensive review of the case management rules starting in the fall of 2003.

should be retained. The committee agreed with various commentators that the proposed language in new subdivision (b)(2) prohibiting courts from requiring parties to appear unnecessarily was not appropriate; instead, it recommends that rule 212(c) be amended to state that a "party should be required to appear at an additional [case management] conference only if an appearance is necessary for the effective management of the case." The committee also recommends including in rule 212(c) the Blue Ribbon Panel's proposed new sentence: "In determining whether to hold a conference, the court must consider each case individually on its own merits." The committee believes that the revised language of rule 212(c) properly balances the concerns of the Blue Ribbon Panel with those of the commentators on this rule.

Finally, the committee discussed the Blue Ribbon Panel's proposal to include in new subdivision (c)(2) of rule 212 the statements that: (1) in most cases, one initial case management and one pretrial conference will be sufficient; but (2) in complex or difficult cases, the court may order additional case management conferences if that would promote the fair and efficient administration of justice. The committee concluded that the words "most civil cases" should be changed to "many civil cases," and the words "in complicated or difficult cases" should be changed to "in other cases including complicated or difficult cases." There was a difference of opinion on the committee whether this provision should be included in the rule. Some supported including it; others opposed this. The committee decided not to include this provision in the rule itself, but to place it, as modified, in an Advisory Committee Comment to rule 212.

#### *Rule 212(f)*

Under the Blue Ribbon Panel's proposal, rule 212(f), on issues in which parties must meet and confer, would be amended to add paragraph (7): "Identifying the dates on which all parties and their attorneys are available for trial." Several commentators suggested that this provision should also include the dates on which the attorneys and parties are unavailable and the reasons for the unavailability. The committee agreed and recommends adding these items to rule 212(f)(7).

#### *Rule 212(j)*

Most commentators supported the adoption of the new subdivision providing criteria for setting a trial date. Only a few thought it was not helpful or unnecessary. The committee agreed with the majority and recommends the adoption of rule 212(j) as proposed.

With the modifications indicated above, the committee recommends that the amendments to rule 212 proposed by the Blue Ribbon Panel be adopted.

#### Comments From Interested Parties: SP03-10

A total of 75 comments was received on the proposal to amend rule 375, adopt rule 375.1, and repeal section 9 of the Standards of Judicial Administration. The commentators included several judges, numerous private attorneys, and the presidents of the California Defense Counsel and the Consumer Attorneys of California.<sup>13</sup>

Although there was strong support for this proposal, there were a few suggestions for modifications. For instance, one commentator suggested adding as a ground for granting a continuance under rule 375(d): “Assigned trial counsel’s engagement in trial in another court.” The committee concluded that was already covered by rule 375(e)(8).

Other commentators suggested providing that the parties’ engagement in settlement discussions should constitute a separate grounds for a continuance under rule 375(d). The committee strongly disagreed that this should be included as a general grounds for granting a continuance. Parties will be engaged in settlement discussion shortly before trial in most cases. Hence, the inclusion of this as a separate criterion would undermine the rule and the policy favoring firm trial dates. But the committee recognized that under certain exceptional circumstances the pendency of serious settlement negotiations might be asserted as a circumstance justifying a continuance under subdivision (e)(11).

A commentator recommended that the subdivisions in rules 375 and 375.1 indicating to which judge a motion for a continuance must be assigned should be changed to indicate that, if a case has previously been assigned to a judge, a motion or application for a continuance should go to that same judge; only if the assigned judge is unavailable should the request be presented to the presiding judge. After some discussion, the committee concluded that the subdivisions regarding the judge to which the motion should be assigned does not need to be included in the rules at all. Each court should provide notice to litigants where this motion should be filed.

A commentator thought that the criteria for granting a continuance listed in rule 375(d)–(e) belonged in the Standards of Judicial Administration. The committee disagreed. It is useful to include these as part of the rule, as the panel proposed.

Other commentators recommended combining subdivisions (d) and (e) of rule 375 or restating rule 375 in various ways. The committee regarded the proposed version of rule 375 as clearer and preferable.

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<sup>13</sup> A chart summarizing the comments on SP03-10 is attached at pages 123–179.

The proposed version of rule 375 that was circulated for comment contained a subdivision (f), which provided that the court has the discretion to condition granting a continuance of a trial upon the payment of the expenses occasioned by the postponement. This provision was based on Code of Civil Procedure section 1024. Some commentators suggested modifying this subdivision; instead, the committee recommends eliminating it entirely. Because this matter is already covered by a statute, it is unnecessary also to include it in the rule.

With the modifications to rules 375 and 375.1 described above, the committee supports the recommendations with respect to these rules and the repeal of section 9 of the standards.

#### Comments From Interested Parties: SP03-11

A total of 74 comments were received on this proposal regarding the rules and standards on case management, case differentiation, and case disposition times. The commentators included several judges, numerous attorneys, the president of the Consumer Attorneys of California, and the president of California Defense Counsel. Most commentators supported the proposal. There were a few suggestions to modify particular proposed rules or standards.<sup>14</sup>

#### *Rule 204*

The panel proposed that a new rule be adopted on the scope and purpose of the case management rules. New rule 204 would state that all the rules in the chapter of the California Rules of Court on civil case management "are to be construed and administered to secure the fair, timely, and efficient disposition of every civil case." This new rule would also provide that case management rules are "to be applied in a fair, practical, and flexible manner so as to achieve the ends of justice." The Blue Ribbon Panel regarded this rule as important in providing guidance to courts on the construction and application of the case management rules. One of the major objectives of the panel was to promote the more flexible construction and application of the case management rules, and it regarded this new rule as a means to achieve that objective.

Few comments were received on rule 204. One person suggested consolidating the two sentences of the rule, but the committee regarded this as unnecessary. In addition, some commentators on the proposed last sentence of rule 212(b)(4) (that was deleted by the committee) objected to the inclusion of the words "fair and practical" in that rule. Even if it may not be appropriate to include such language in a particular rule, including it in a general rule of construction and application of rules would appear to be proper. (See Fed. R. Civ. P., Rule 1 (" . . . [These] rules

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<sup>14</sup> A chart summarizing the comments on SP03-11 is attached at pages 180-250.

shall be construed to secure the just, speedy, and inexpensive determination of every action").) The committee recommends the adoption of new rule 204.

### *Rule 209*

The Blue Ribbon Panel regarded the amendment of rule 209 on case differentiation to be very important. This rule presently provides for the assignment of most civil cases to one of three plans to be managed so that the cases are disposed of within certain case disposition time goals. Panel members were especially concerned that the automatic assignment of cases to plan 1 for disposition within one year is causing problems because it is resulting in many cases being assigned arbitrary and unrealistic trial dates. Accordingly, the panel proposed amending rule 209 to eliminate the current scheme of assignment of cases to plans and to provide instead that most cases be assigned to the case management program for review under rule 212. In addition, the panel proposed including directly in rule 209 the modified civil case disposition time goals for unlimited civil cases that would provide that 75 percent are disposed of within 12 months, 85 percent within 18 months, and 100 percent within 24 months.

There was general support for this proposal. Few commentators focused specifically on rule 209; instead, in connection with this proposal, they primarily commented on the proposed amendment to section 2.1 of the Standards of Judicial Administration, which would change the case disposition time standards for unlimited civil cases and which would be incorporated into rule 209.<sup>15</sup>

Notwithstanding this scarcity of comments specifically on the amendments to rule 209, these amendments are very important. They clarify that the process of differential case management has fundamentally shifted from a clerical or administrative function to a judicial function under rule 212. Under amended rule 209 and rule 212, at the time of case management review, the court must review the statement submitted by all parties in each case, hold a conference if appropriate, and issue an order managing the case to trial. This approach should reduce arbitrariness and promote the individualized treatment of every civil case based on its particular facts.

The committee supports the panel's proposed amendments to rule 209 in their entirety.

### *Section 2 of the standards*

Only one comment was received specifically on the amendments to section 2.1 of the Standards of Judicial Administration. The commentator suggested including "necessary preparation" in the statement describing elapsed time reasonably required to bring a civil case to trial under amended section 2.1(a) (on elimination

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<sup>15</sup> Section 2.1, the comment on it, and the committee's responses are discussed further below.

of all unnecessary delays). Based on Government Code section 68603, the committee agreed that the provision should be included, but added only the word "preparation" because this accurately reflects the language of the code.

#### *Sections 2.1, 2.3, and 2.4 of the standards*

Under the Blue Ribbon Panel's proposals, section 2.1 of the Standards of Judicial Administration would be amended to be more flexible and to make the standards consistent with trial court unification and modern case management procedures. Sections 2.3 and 2.4 would be repealed, and their major provisions incorporated into section 2.1.

The main comments received on these proposals concerned the proposal to modify the case disposition time standards in section 2.1 for unlimited civil cases.

Presently, the standards provide that the goal of each court should be to manage all general unlimited civil cases from the time of filing so that (1) 90 percent are disposed of within 12 months, (2) 98 percent are disposed of with 18 months, and (3) 100 percent are disposed of with 24 months. Panel members, especially the attorneys, believed that this standard is too stringent for unlimited civil cases and is causing significant problems. They are concerned that some trial courts, in their efforts to achieve the 90 percent disposition rate, are setting all or most unlimited civil cases for trial within one year of filing; hence, many cases for which an early trial date is not appropriate are being given premature trial dates. Thus, the panel recommended changing the time standards so that the goal of each court would be to manage unlimited civil cases so that (1) 75 percent are disposed of within 12 months, (2) 85 percent are disposed of within 18 months, and (3) 100 percent are disposed of within 24 months.

Most commentators, including attorneys and bar organizations, supported the proposed modification to section 2.1. One individual stated that even the goal of disposing of 75 percent of cases in the first year is unrealistic; instead he proposed a goal of 50 percent. On the other hand, some courts and judicial officers indicated that they would prefer to keep the current ABA civil case disposition time standards.<sup>16</sup>

The committee considered the arguments presented for preserving the current standards and concluded that these standards should be modified as proposed by the Blue Ribbon Panel. Several features of the proposed new standards should be mentioned.

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<sup>16</sup> On the proposal to amend section 2.1 of the standards, the Superior Court of Napa County has provided particularly extensive comments that were distributed to the members of the Judicial Council. The committee's detailed responses to those comments are contained in the chart on proposal SP03-11.

First, the proposed change to section 2.1 that has raised the most concern would apply only to *unlimited* civil cases; the standard for limited civil cases and most other types of cases would remain unchanged.

Second, only the case disposition time goals for disposing of unlimited civil cases within 12 and 18 months would be modified; the goal for disposing of 100 percent of unlimited civil cases within 24 months would remain unchanged.

The proposed changes described above are tailored to address the specific problem identified by the Blue Ribbon Panel, i.e., that unlimited civil cases are often being set arbitrarily for trial under the current standards at one year from filing when a longer time is needed. At the same time, the proposal preserves the longer term goal of disposing of all unlimited civil cases within two years.

There are good reasons for concluding that the existing goal of disposing of 90 percent of unlimited civil cases within one year may be too high. Despite a decade of vigorous case management statewide, only 65 percent of unlimited civil cases were disposed of within 12 months by fiscal year 2001–2002. In addition, as commentators have pointed out, recent changes in the law may have made it more difficult to bring an unlimited civil case to trial within a year. In particular, the substantially longer new time period for noticing summary judgment motions is causing problems with disposing of cases within 12 months. Also, the statutory time required to complete discovery in eminent domain cases exceeds twelve months.

The reduction of the goal for disposing of unlimited cases from 90 percent to 75 percent within one year is warranted because it should reduce the pressure experienced by some courts to set most unlimited cases automatically for trial within 12 months. The modified standard for unlimited civil cases—especially when combined with the case-by-case review prescribed by rules 209 and 212—will ensure that every case is appropriately set for trial. The modified standard and the rules will clarify that the 75 percent goal is an overall *goal* for all cases and that each case needs to be addressed individually on its own merits. The amended standards and rules will preserve the policy of encouraging the prompt disposition of each individual case by providing that "each case should be set for trial as soon as appropriate for that individual case consistent with rule 212(j)." (See amended rule 209(b)(3) and section 2.1(f)(3).)

It has been argued that the ABA Standards should be retained because they have enjoyed years of acceptance by courts and scholars nationwide. However, the most recent state-by-state study of case processing time standards indicates that only five jurisdictions have adopted the civil standards promulgated by the ABA—California, Oregon, Virginia, Washington, and the District of Columbia.

There have been no additions or changes to this list since 1995. According to the authors of the study, "[c]ase processing time standards are continuously being adopted, implemented, amended, and reevaluated in various states around the country."<sup>17</sup> Thus, after more than a decade of experience with the ABA Standards, it was appropriate the Blue Ribbon Panel to reevaluate them and make recommendations for changes.

The advisory committee supports the changes recommended by the panel. These changes would not weaken the standards, but rather would improve the overall process of civil case management by making it more flexible and focused on the needs of each individual case.

#### *Other comments on the standards*

The commentators expressed a few other concerns regarding the amendments to the standards. For instance, a court executive suggested that the word “appearance” in section 2.1 (j) of the standards should be replaced by “arraignment”. The committee agreed that this subdivision should be modified to be consistent with subdivision (k).

A commentator suggested modifying the case disposition time goals for felony preliminary examinations. He believed that more time is necessary because, as a result of three-strikes and other sentence-enhancing laws, additional time is necessary to conference prior to preliminary examinations. The committee referred this suggestion to the Criminal Law Advisory Committee for possible action.

With the modifications described above, the committee supports the recommendations of the Blue Ribbon Panel to amend the rules and standards regarding civil case management and case disposition times.

#### Recommendations

The Civil and Small Claims Advisory Committee recommends that the Judicial Council adopt the Blue Ribbon Panel’s proposals regarding rules and standards, with the modifications described in this report, effective January 1, 2004, by:

1. Amending rule 212 of the California Rules of Court to include explicit criteria for setting civil cases for trial;
2. Amending rule 375 of the California Rules of Court, adopting rule 375.1, and repealing section 9 of the California Standards of Judicial Administration to

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<sup>17</sup> Heather Dodge and Kenneth Pankey, *Case Processing Time in State Courts, 2002–2003* (National Center for State Courts, 2003), p. 4.

provide a clear and practical good cause standard for granting continuances of trial dates; and

3. Adopting rule 204 of the California Rules of Court, amending rules 208 and 209, amending sections 2 and 2.1 of the California Standards of Judicial Administration, and repealing sections 2.3 and 2.4, to improve the rules on trial delay reduction and to modify the goals for case disposition times of certain civil cases to make these goals more realistic and practical.

The text of three sets of proposed changes to the rules and standards, as proposed by the panel and modified by the advisory committee, is attached at pages 23–46.

#### Implementation Requirements and Costs

The adoption of the Blue Ribbon Panel's three proposals, as modified, will require some implementation actions by the courts. Courts presently using the current three plan scheme or otherwise assigning most civil cases automatically to trial within one year of filing will be required to modify their case management procedures. The adoption of the proposals may require some judges to give greater attention to individual cases, which may necessitate the allocation of some additional judicial resources to civil cases, but it will also improve the overall fairness and efficiency of the case management process.

#### Attachments

## FIRST PROPOSAL (SP03-09)

Rule 212 of the California Rules of Court is amended, effective January 1, 2004, to read:

**Rule 212. Case management conference; meet-and-confer requirement; and case management order**

(a) **[Initial case management review]** In every general civil case except complex cases and cases exempted under rules 207(c)–(d), 209(d)–(e), ~~and 214, and 243.8,~~ the court must review the case no later than 180 days after the filing of the initial complaint.

(b) **[Case management conference]**

(1) (*Case management conference*) In each case, the court must set a an initial case management conference to review the case. At the conference, the court must review the case comprehensively and decide whether to assign the case to an alternative dispute resolution process, whether to set the case for trial, and the other matters stated in this rule. The initial case management conference should generally be the first case management event conducted by court order in each case, except for orders to show cause.

(2) (*Notice of the conference*) Notice of the date of the case management conference must be given to all parties no later than 45 days before the conference, unless otherwise ordered by the court. The court may provide by local rule for the time and manner of giving notice to the parties.

(3) (*Appearances at the conference*) At the conference, counsel for each party and each self-represented party must appear personally or, if permitted under rule 298(c)(2), by telephone; ~~must be familiar with the case; and must be prepared to discuss and commit to the party's position on the issues listed in (e)– and (f).~~

~~(2)~~(4) (*Case management order without appearance*) If, based on its review of the written submissions of the parties and such other information as is available, the court determines that appearances at the conference are not necessary, the court may issue a case management order and notify the parties that no appearance is required.

1           ~~(3)~~(5) *(Option to excuse attendance at conferences in limited civil cases-)*

2           In all general civil cases except those exempted under (a), the court  
3           must review the case and issue a case management order under this  
4           rule, but by local rule the court may provide that counsel and self-  
5           represented parties are not to attend a case management conference  
6           in limited civil cases; unless ordered to do so by the court.

7  
8           (c) ~~[Special order or request for a case management conference]~~  
9           [Additional case management conferences]

10  
11           The court on its own motion may order, or a party or parties may  
12           request, that a an additional case management conference be held at any  
13           time. A party should be required to appear at an additional conference  
14           only if an appearance is necessary for the effective management of the  
15           case. In determining whether to hold an additional conference, the court  
16           must consider each case individually on its own merits.

17  
18           (d) **[Arbitration determination]** In courts having a judicial arbitration  
19           program under Code of Civil Procedure section 1141.11, the court at the  
20           time of the case management conference or review must determine if  
21           the case is suitable for judicial arbitration.

22  
23           (e) **[Subjects to be considered at the case management conference]** In  
24           any case management conference or review under this rule, the parties  
25           must address, if applicable, and the court may take appropriate action  
26           with respect to, the following:

- 27  
28           (1) Whether there are any related cases;  
29  
30           (2) Whether all parties named in the complaint or cross-complaint  
31           have been served, have appeared, or have been dismissed;  
32  
33           (3) Whether any additional parties may be added or the pleadings may  
34           be amended;  
35  
36           (4) Whether, if the case is a limited civil case, the economic litigation  
37           procedures under Code of Civil Procedure section 90 et seq. will  
38           apply to it or the party intends to bring a motion to exempt the case  
39           from these procedures;  
40  
41           (5) Whether any other matters (e.g., the bankruptcy of a party) may  
42           affect the court's jurisdiction or processing of the case;  
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- (6) Whether the parties have stipulated to, or the case should be referred to, judicial arbitration or any other form of alternative dispute resolution (ADR) and, if so, the date by which the ADR must be completed;
- (7) Whether an early settlement conference should be scheduled and, if so, on what date;
- (8) Whether discovery has been completed and, if not, the date by which it will be completed;
- (9) What discovery issues are anticipated;
- (10) Whether the case should be bifurcated or a hearing should be set for a motion to bifurcate under section 598 of the Code of Civil Procedure;
- (11) Whether there are any cross-complaints that are not ready to be set for trial and, if so, whether they should be severed;
- (12) Whether the case is entitled to any statutory preference and, if so, the statute granting the preference;
- (13) Whether a jury trial is demanded, and, if so, the identity of each party requesting a jury trial;
- (14) If the trial date has not been previously set, the date by which the case will be ready for trial and the available trial dates;
- (15) The estimated length of trial;
- (16) The nature of the injuries;
- (17) The amount of damages, including any special or punitive damages;
- (18) Any additional relief sought;
- (19) Whether there are any insurance coverage issues that may affect the resolution of the case; and
- (20) Any other matters that should be considered by the court or addressed in its case management order.

1  
2 (f) **[Meet-and-confer requirement]** Unless the court orders another time  
3 period, no later than 30 calendar days before the date set for the case  
4 management conference, the parties must meet and confer, in person or  
5 by telephone, to consider each of the issues identified in (e) and, in  
6 addition, to consider the following:

7  
8 (1) Resolving any discovery disputes and setting a discovery schedule;

9  
10 (2) Identifying and, if possible, informally resolving any anticipated  
11 motions;

12  
13 (3) Identifying the facts and issues in the case that are uncontested and  
14 may be the subject of stipulation;

15  
16 (4) Identifying the facts and issues in the case that are in dispute;

17  
18 (5) Determining whether the issues in the case can be narrowed by  
19 eliminating any claims or defenses by means of a motion or  
20 otherwise;

21  
22 (6) Possible settlement; and

23  
24 (7) Identifying the dates on which all parties and their attorneys are  
25 available or not available for trial, including the reasons for  
26 unavailability; and

27  
28 ~~(7)~~(8) Other relevant matters.

29  
30 (g) **[Case management statement]**

31  
32 (1) *(Timing of statement)* No later than 15 calendar days before the  
33 date set for the case management conference or review, each party  
34 must file a case management statement and serve it on all other  
35 parties in the case.

36  
37 (2) *(Contents of statement)* Parties must use the mandatory *Case*  
38 *Management Statement* (form CM-110). All applicable items on  
39 the form must be completed. In lieu of each party's filing a  
40 separate case management statement, any two or more parties may  
41 file a joint statement under this rule.  
42

1       **(h) [Stipulation to Alternative Dispute Resolution]** If all parties agree to  
2       use an alternative dispute resolution (ADR) process, they must jointly  
3       complete the ADR stipulation form provided for under rule 201.9 and  
4       file it with the court.

5  
6       **(i) [Case management order]** The case management conference must be  
7       conducted in the manner provided by local rule. The court must enter a  
8       case management order setting a schedule for subsequent proceedings  
9       and otherwise providing for the management of the case. The order  
10      should include such provisions as may be appropriate, including:

- 11  
12      (1) Referral of the case to judicial arbitration or some other form of  
13      alternative dispute resolution;  
14  
15      (2) A date for completion of the arbitration process or other form of  
16      alternative dispute resolution process if the case has been referred  
17      to such a process;  
18  
19      (3) In the event that a trial date has not previously been set, a date  
20      certain for trial if the case is ready to be set for trial;  
21  
22      (4) Whether the trial will be a jury trial or a nonjury trial;  
23  
24      (5) The identity of each party demanding a jury trial;  
25  
26      (6) The estimated length of trial;  
27  
28      (7) Whether all parties necessary to the disposition of the case have  
29      been served or have appeared;  
30  
31      (8) The dismissal or severance of unserved or not-appearing  
32      defendants from the action;  
33  
34      (9) The names and addresses of the attorneys who will try the case;  
35  
36      (10) The date, time, and place for a mandatory settlement conference as  
37      provided in rule 222;  
38  
39      (11) The date, time, and place for the final case management conference  
40      before trial if such a conference is required by the court or the  
41      judge assigned to the case;  
42

1 (12) The date, time, and place of any further case management  
2 conferences or review; and

3  
4 (13) Any additional orders that may be appropriate, including orders on  
5 matters listed in (e) and (f).  
6

7 **(j) [Setting the trial date]** In setting a case for trial, the court, at the initial  
8 case management conference or at any other proceeding at which the  
9 case is set for trial, must consider all the facts and circumstances that  
10 are relevant. These may include:

11  
12 (1) Type and subject matter of the action to be tried;

13  
14 (2) Whether the case has statutory priority;

15  
16 (3) Number of causes of action, cross-actions, and affirmative  
17 defenses that will be tried;

18  
19 (4) Whether any significant amendments to the pleadings have been  
20 made recently or are likely to be made before trial;

21  
22 (5) Whether the plaintiff intends to bring a motion to amend the  
23 complaint to seek punitive damages under section 425.13 of the  
24 Code of Civil Procedure;

25  
26 (6) Number of parties with separate interests who will be involved in  
27 the trial;

28  
29 (7) The complexity of the issues to be tried, including issues of first  
30 impression;

31  
32 (8) Any difficulties in identifying, locating, or serving parties;

33  
34 (9) Whether all parties have been served and, if so, the date by which  
35 they were served;

36  
37 (10) Whether all parties have appeared in the action and, if so, the date  
38 by which they appeared;

39  
40 (11) How long the attorneys who will try the case have been involved in  
41 the action;

42  
43 (12) The trial date or dates proposed by the parties and their attorneys;

- 1  
2       (13) The professional and personal schedules of the parties and their  
3       attorneys, including any conflicts with previously assigned trial  
4       dates or other significant events;  
5  
6       (14) The amount of discovery, if any, that remains to be conducted in  
7       the case;  
8  
9       (15) The nature and extent of law and motion proceedings anticipated,  
10      including whether any motions for summary judgment will be  
11      filed;  
12  
13      (16) Whether any other actions or proceedings that are pending may  
14      affect the case;  
15  
16      (17) The amount in controversy and the type of remedy sought;  
17  
18      (18) The nature and extent of the injuries or damages, including  
19      whether these are ready for determination;  
20  
21      (19) The court's trial calendar, including the pendency of other trial  
22      dates;  
23  
24      (20) Whether the trial will be a jury or a nonjury trial;  
25  
26      (21) The anticipated length of trial;  
27  
28      (22) The number, availability, and locations of witnesses, including  
29      witnesses who reside outside the county, state, or country;  
30  
31      (23) Whether there have been any previous continuances of the trial or  
32      delays in setting the case for trial;  
33  
34      (24) The achievement of a fair, timely, and efficient disposition of the  
35      case; and  
36  
37      (25) Any other factor that would significantly affect the determination  
38      of the appropriate date of trial.  
39

40    Ⓣ(k) [Case management order controls] The order issued after the case  
41       management conference or review controls the subsequent course of the  
42       action or proceeding unless it is modified by a subsequent order.  
43

1  
2  
3  
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7

**Advisory Committee Comment**

Regarding rule 212(c) on additional case management conferences, in many civil cases one initial conference and one other conference before trial will be sufficient. But in other cases including complicated or difficult cases, the court may order an additional case management conference or conferences if that would promote the fair and efficient administration of the case.

## SECOND PROPOSAL (SP03-10)

Rule 375 of the California Rules of Court is amended, rule 375.1 is adopted, and section 9 of the California Standards of Judicial Administration is repealed, effective January 1, 2004, to read:

1 **Rule 375. ~~Motions concerning trial dates~~ Motion or application for**  
2 **continuance of trial**  
3

4 (a) ~~[Motions and grounds for continuances]~~ Continuances before or  
5 during trial in civil cases are disfavored. The date set for trial shall be  
6 firm. Unless the case has previously been assigned for all purposes to a  
7 specific judge or department, a motion for continuance before trial shall  
8 be made to the judge supervising the master calendar, or if there is no  
9 master calendar, to the judge in whose department the case is pending.  
10 If the case has been assigned for all purposes to a specific judge or  
11 department, the motion shall be made before the assigned judge or in  
12 the assigned department. Except for good cause, the motion shall be  
13 made on written notice to all other parties. The notice shall be given  
14 and motion made promptly on the necessity for the continuance being  
15 ascertained. A continuance before or during trial shall not be granted  
16 except on an affirmative showing of good cause under the standards  
17 recommended in section 9 of the Standards of Judicial Administration.  
18 This rule shall not prevent cases not subject to the Trial Court Delay  
19 Reduction Act from being removed from the civil active list as provided  
20 in rule 223.

21  
22 (b) ~~[Motions to advance or reset]~~ Unless the case has previously been  
23 assigned for all purposes to a specific judge or department, motions to  
24 advance, reset, or specially set cases for trial shall be made before the  
25 presiding judge or the presiding judge's designee. If the case has been  
26 assigned for all purposes to a specific judge or department, the motion  
27 shall be made before the assigned judge or in the assigned department.  
28 A motion to advance, reset, or specially set a case for trial shall not be  
29 granted, except on notice, the filing of a declaration showing good  
30 cause, and the appearance by the moving party at the hearing on the  
31 motion.

32  
33 (a) **[Trial dates are firm]** To ensure the prompt disposition of civil cases,  
34 the dates assigned for a trial are firm. All parties and their counsel  
35 must regard the date set for trial as certain.  
36

1       **(b) [Motion or application]** A party seeking a continuance of the date set  
2       for trial, whether contested or uncontested or stipulated to by the  
3       parties, must make the request for a continuance by a noticed motion  
4       or an ex parte application under rule 379, with supporting declarations.  
5       The party must make the motion or application as soon as reasonably  
6       practical once the necessity for the continuance is discovered.

7  
8       **(c) [Grounds for continuance]** Although continuances of trials are  
9       disfavored, each request for a continuance must be considered on its  
10       own merits. The court may grant a continuance only upon an  
11       affirmative showing of good cause requiring the continuance.  
12       Circumstances that may indicate good cause include:

13  
14       (1) The unavailability of an essential lay or expert witness because  
15       of death, illness, or other excusable circumstances;

16  
17       (2) The unavailability of a party because of death, illness, or other  
18       excusable circumstances;

19  
20       (3) The unavailability of trial counsel because of death, illness, or  
21       other excusable circumstances;

22  
23       (4) The substitution of trial counsel, but only where there is an  
24       affirmative showing that the substitution is required in the  
25       interests of justice;

26  
27       (5) The addition of a new party if:

28  
29           (A) the new party has not had a reasonable opportunity to  
30           conduct discovery and prepare for trial, or

31  
32           (B) the other parties have not had a reasonable opportunity to  
33           conduct discovery and prepare for trial in regard to the new  
34           party's involvement in the case;

35  
36       (6) A party's excused inability to obtain essential testimony,  
37       documents, or other material evidence despite diligent efforts; or

38  
39       (7) A significant, unanticipated change in the status of the case as a  
40       result of which the case is not ready for trial.  
41

1        **(d) [Other factors to be considered]** In ruling on a motion or application  
2        for continuance, the court must consider all the facts and circumstances  
3        that are relevant to the determination. These may include:  
4

- 5            (1) The proximity of the trial date;  
6  
7            (2) Whether there was any previous continuance, extension of time,  
8            or delay of trial due to any party;  
9  
10          (3) The length of the continuance requested;  
11  
12          (4) The availability of alternative means to address the problem that  
13          gave rise to the motion or application for a continuance;  
14  
15          (5) The prejudice that parties or witnesses will suffer as a result of  
16          the continuance;  
17  
18          (6) If the case is entitled to a preferential trial setting, the reasons for  
19          that status and whether the need for a continuance outweighs the  
20          need to avoid delay;  
21  
22          (7) The court's calendar and the impact of granting a continuance on  
23          other pending trials;  
24  
25          (8) Whether trial counsel is engaged in another trial;  
26  
27          (9) Whether all parties have stipulated to a continuance;  
28  
29          (10) Whether the interests of justice are best served by a continuance,  
30          by the trial of the matter, or by imposing conditions on the  
31          continuance; and  
32  
33          (11) Any other fact or circumstance relevant to the fair determination  
34          of the motion or application.  
35

36        **Rule 375.1. Motion or application to advance, specially set, or reset trial date**  
37

- 38            **(a) [Noticed motion or application required]** A party seeking to  
39            advance, specially set, or reset a case for trial must make this request  
40            by noticed motion or ex parte application under rule 379.  
41

1           **(b) [Grounds for motion or application]** The request may be granted  
2           only upon an affirmative showing by the moving party of good cause  
3           based on a declaration served and filed with the motion or application.  
4

5           **Judicial Administration Standards, Section 9. Policy regarding continuances**  
6           **in the superior court**  
7

8           To ensure the prompt disposition of civil cases, each superior court should adopt a  
9           firm policy regarding continuances, emphasizing that the dates assigned for a trial  
10          setting or pretrial conference, a settlement conference and for trial must be  
11          regarded by counsel as definite court appointments. Any continuance, whether  
12          contested or uncontested or stipulated to by the parties, should be applied for by  
13          noticed motion, with supporting declarations, to be heard only by the presiding  
14          judge or by a judge designated by him. No continuance otherwise requested  
15          should be granted except in emergencies. A continuance should be granted only  
16          upon an affirmative showing of good cause requiring the continuance. In general,  
17          the necessity for the continuance should have resulted from an emergency  
18          occurring after the trial setting conference that could not have been anticipated or  
19          avoided with reasonable diligence and cannot now be properly provided for other  
20          than by the granting of a continuance. In ruling on a motion for a continuance, the  
21          court should consider all matters relevant to a proper determination of the motion,  
22          including the court's file in the case and any supporting declarations concerning  
23          the motion; the diligence of counsel, particularly in bringing the emergency to the  
24          court's attention and to the attention of opposing counsel at the first available  
25          opportunity and in attempting to otherwise meet the emergency; the nature of any  
26          previous continuances, extensions of time or other delay attributable to any party;  
27          the proximity of the trial or hearing date; the condition of the court's calendar and  
28          the availability of an earlier trial or hearing date if the matter is ready for trial or  
29          hearing; whether the continuance may properly be avoided by the substitution of  
30          attorneys or witnesses, by the use of depositions in lieu of oral testimony, or by the  
31          trailing of the matter for trial or hearing; whether the interests of justice are best  
32          served by a continuance, by the trial or hearing of the matter, or by imposing  
33          conditions on its continuance; and any other fact or circumstance relevant to a fair  
34          determination of the motion. The following matters should, under normal  
35          circumstances, be considered good cause for granting the continuance of a trial  
36          date:

37  
38          **(1) Death:**  
39

- 40                (i) The death of the trial attorney or an essential witness where,  
41                because of the proximity of such death to the date of the trial, it is  
42                not feasible to substitute another attorney or witness.  
43

1           (ii) ~~The death of an expert witness where, because of the proximity~~  
2           ~~of his death to the date of trial, there has been no reasonable~~  
3           ~~opportunity for a substitute expert witness to become qualified to~~  
4           ~~testify in the case.~~

5  
6           (iii) ~~The death of any other witness only where it is not possible to~~  
7           ~~obtain another witness to testify to the same facts or where,~~  
8           ~~because of the proximity of his death to the date of trial, there has~~  
9           ~~been no reasonable opportunity to obtain such a substitute~~  
10          ~~witness.~~

11  
12       (2) ~~Illness that is supported, wherever possible, by an appropriate~~  
13       ~~declaration of a medical doctor, stating the nature of the illness and the~~  
14       ~~anticipated period of any incapacity:~~

15  
16           (i) ~~The illness of a party or essential witness, except that, when it is~~  
17           ~~anticipated the incapacity of such party or witness will continue~~  
18           ~~for an extended period, the continuance should be granted on~~  
19           ~~condition of taking the deposition of the party or witness in order~~  
20           ~~that the trial may proceed on the next date set.~~

21  
22           (ii) ~~The illness of the trial attorney or of an expert witness, except~~  
23           ~~that the substitution of another attorney or witness should be~~  
24           ~~considered in lieu of a continuance depending on the proximity~~  
25           ~~of the illness to the date of trial, the anticipated duration of the~~  
26           ~~incapacity, the complexity of the case, and the availability of a~~  
27           ~~substitute attorney or expert witness.~~

28  
29           (iii) ~~The illness of any other witness only where it is not possible to~~  
30           ~~obtain another witness to testify to the same facts or where,~~  
31           ~~because of the proximity of his illness to trial, there has been no~~  
32           ~~reasonable opportunity to obtain such a substitute witness.~~

33  
34       (3) ~~Unavailability of trial attorney or witness:~~

35  
36           (i) ~~The unavailability of the trial attorney when he is engaged in~~  
37           ~~the trial of another case, or in the hearing, investigative or~~  
38           ~~formal, of a State Bar disciplinary matter, if: (a) at the time the~~  
39           ~~attorney accepted the trial date in this case he could not have~~  
40           ~~reasonably anticipated the conflict in trial dates; and (b) the~~  
41           ~~court was informed and made a finding at the pretrial or trial~~  
42           ~~setting conference or on motion made at least 30 days before~~  
43           ~~the date set for trial that the case was assigned for trial to this~~

1 attorney within a particular law firm and that no other attorney  
2 in that firm was capable and available to try the case and was or  
3 could be prepared to do so.  
4

5 (ii) The unavailability of a witness only where the witness has been  
6 subpoenaed or is beyond the reach of subpoena and has agreed to  
7 be present, and his absence is due to an unavoidable emergency  
8 that counsel did not know and could not reasonably have  
9 known at the time of the pretrial or trial setting conference.  
10

11 (4) Substitution of trial attorney:  
12

13 The substitution of the trial attorney only where there is an affirmative showing  
14 that the substitution is required in the interests of justice.  
15

16 (5) Significant change in status of case:  
17

18 A significant change in the status of the case where, because of a change in the  
19 parties or pleadings ordered by the court, the case is not ready for trial.

### THIRD PROPOSAL (SP03-11)

Rule 204 of the California Rules of Court is adopted, and rules 208 and 209 are amended, sections 2 and 2.1 of the California Standards of Judicial Administration are amended, and sections 2.3 and 2.4 are repealed, effective January 1, 2004, to read:

#### **Rule 204. Scope and purpose of the case management rules**

The rules in this chapter are to be construed and administered to secure the fair, timely, and efficient disposition of every civil case. The rules are to be applied in a fair, practical, and flexible manner so as to achieve the ends of justice.

#### **Rule 208. Delay reduction goals**

- (a) **[Case management goals]** The rules in this chapter are adopted to advance the goals of section 68607 of the Government Code and section 2 of the California Standards of Judicial Administration recommended by the Judicial Council within the time limits specified in section 68616 of the Government Code.
- (b) **[Case disposition time goals]** The goal of the court is to manage general civil cases from filing to disposition as provided under sections ~~2.1 and 2.3~~ of the California Standards of Judicial Administration.
- (c) **[Judges' responsibility]** It is the responsibility of judges to achieve a just and effective resolution of each general civil case through active management and supervision of the pace of litigation from the date of filing to disposition.

#### **Rule 209. Differentiation of cases to achieve goals**

- (a) **[Evaluation and assignment]** The court must evaluate each case on its own merits as provided in rule 210, under procedures adopted by local court rules. After evaluation, the court must:
- (1) assign each case to one of the three case management plans listed in (b) the case to the case management program for review under rule 212 for disposition under the case disposition time goals in (b) of this rule; or
  - (2) exempt the case as an exceptional case under ~~(d)~~(c) of this rule from the case disposition time goals specified in rule 208(b) and monitor it with the goal of disposing of it within three years; or
  - (3) assign the case under ~~(e)~~ (d) of this rule to the a local case management plan for disposition within six to nine months after filing.

1  
2 ~~(b) [Case management plans]~~ Time of disposition under the following case  
3 management plan is, from the date of filing:  
4

5 (1) Plan 1: 12 months;  
6

7 (2) Plan 2: 18 months;  
8

9 (3) Plan 3: 24 months.  
10

11 **(b) [Civil case disposition time goals]** Civil cases assigned to the case  
12 management program for review under rule 212 should be managed so as to  
13 achieve the following goals:  
14

15 (1) (Unlimited civil cases) The goal of each trial court should be to manage  
16 unlimited civil cases from filing so that:  
17

18 (A) 75 percent are disposed of within 12 months;  
19

20 (B) 85 percent are disposed of within 18 months; and  
21

22 (C) 100 percent are disposed of within 24 months.  
23

24 (2) (Limited civil cases) The goal of each trial court should be to manage  
25 limited civil cases from filing so that:  
26

27 (A) 90 percent are disposed of within 12 months;  
28

29 (B) 98 percent are disposed of within 18 months; and  
30

31 (C) 100 percent are disposed of within 24 months.  
32

33 (3) (Individualized case management) The goals in (1) and (2) are guidelines  
34 for the court's disposition of all unlimited and limited civil cases filed in  
35 that court. In managing individual civil cases, the court must consider  
36 each case on its merits. To enable the fair and efficient resolution of civil  
37 cases, each case should be set for trial as soon as appropriate for that  
38 individual case consistent with rule 212(j).  
39

40 **(e) [Case management Plan 1]** The court may by local rule presume that a case is  
41 subject to the disposition goal under case management Plan 1 when the case is  
42 filed or as otherwise provided by the court. The court may modify the  
43 assigned case management plan at any time for good cause shown.

1  
2 **(d)(c) [Exemption of exceptional cases]**  
3

4 (1) The court may in the interest of justice exempt a general civil case from  
5 the case disposition time goals under rule 208(b) if it finds the case  
6 involves exceptional circumstances that will prevent the court and the  
7 parties from meeting the goals and deadlines imposed by the program. In  
8 making the determination, the court is guided by rules 210 and 1800.  
9

10 (2) If the court exempts the case from the case disposition time goals, the  
11 court must establish a case progression plan and monitor the case to  
12 ensure timely disposition consistent with the exceptional circumstances,  
13 with the goal of disposing of the case within three years.  
14

15 **(e)(d) [Local case management plan for expedited case disposition]**  
16

17 (1) For expedited case disposition, the court may by local rule adopt a case  
18 management plan that establishes a goal for disposing of appropriate  
19 cases within six to nine months after filing. The plan must establish a  
20 procedure to identify the cases to be assigned to the plan.  
21

22 (2) The plan must be used only for uncomplicated cases amenable to early  
23 disposition that do not need a case management conference or review or  
24 similar event to guide the case to early resolution.  
25

26 **§ 2. Caseflow management and delay reduction—statement of general principles**  
27

28 **(a) [Elimination of all unnecessary delays]** Trial courts should be guided by the  
29 general principle that from the commencement of litigation to its resolution,  
30 whether by trial or settlement, any elapsed time other than reasonably required  
31 for pleadings, discovery, preparation, and court events is unacceptable and  
32 should be eliminated.  
33

34 **(b) [Court responsible for the pace of litigation]** To enable the just and efficient  
35 resolution of cases the court, not the lawyers or litigants, should control the  
36 pace of litigation. A strong judicial commitment is essential to reducing delay  
37 and, once achieved, maintaining a current docket.  
38

39 **(c) [Presiding judge's role]** The presiding judge of each court should take an  
40 active role in advancing the goals of delay reduction and in formulating and  
41 implementing local rules and procedures to accomplish the following:  
42

- (1) The expeditious and timely resolution of cases, after full and careful consideration consistent with the ends of justice;
- (2) The identification and elimination of local rules, forms, practices, and procedures that are obstacles to delay reduction, are inconsistent with statewide case management rules, or that prevent the court from effectively managing its cases;
- (3) The formulation and implementation of a system of tracking cases from filing to disposition; and
- (4) The training of judges and nonjudicial administrative personnel in delay reduction rules and procedures adopted in the local jurisdiction.

## § 2.1 ~~Superior~~ Trial court case/\_disposition time standards

- (a) **[Trial Court Delay Reduction Act]** The recommended time standards in this section are adopted ~~pursuant to~~ under chapter 1335 of the Statutes of 1986 (Gov. Code, § 68603) Government Code sections 68603 and 68620.
- (b) **[Statement of purpose]** These recommended time standards are intended to guide the trial courts in applying the policies and principles of section 2 of the Standards of Judicial Administration. They are administrative, justice-oriented guidelines to be used in the management of the courts. They are intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts. The standards establish goals for all cases filed and are not meant to create deadlines for individual cases. Through its case management practices, a court may achieve or exceed the goals stated in these standards for the overall disposition of cases. The standards should be applied in a fair, practical, and flexible manner. They are not to be used as the basis for sanctions against any court or judge.
- (c) **[Definition]** The definition of "general civil case" in rule 200.1(2) applies to this section. It includes both unlimited and limited civil cases.
- ~~(e)~~(d) **[~~Superior court~~ Civil cases—processing time goals]** The goal of each superior trial court should be to process general civil cases to meet the following goals: so that
  - (1) ~~By January 1, 1989, all cases should be disposed within four years of filing;~~

(2) ~~By January 1, 1990, all cases should be disposed within three years of filing;~~

(3) ~~After January 1, 1991, all cases should be~~ are disposed of within two years of filing.

~~(d)(e)~~ **[Superior court Civil cases—rate of disposition]** Each superior trial court should dispose of at least as many civil cases as are filed each year and, if necessary to meet the case-processing standards in ~~subdivision (e)(d)~~, dispose of more cases than are filed. As the court disposes of inactive cases, it should identify active cases that may require judicial attention.

~~(e)~~ **[Definition]** As used in this section, "general civil case" means all civil cases except probate, guardianship, conservatorship, family law, juvenile proceedings, and "other civil petitions" as defined in the Regulations on Superior Court Reports to the Judicial Council.

~~(f)~~ **[Felony cases]** Except for capital cases, all felony cases disposed of should have a total elapsed processing time of no more than one year from first appearance in any court to disposition.

~~(g)~~ **[Exceptional cases]** A civil case that involves exceptional circumstances or will require continuing review is exempt from the time standards in subdivisions (c) and (h). An exceptional case is not exempt from the time standard in subdivision (f), but case progress should be separately reported under the Regulations on Superior Court Reports to the Judicial Council.

~~(h)(f)~~ **[Superior court General civil cases—case/\_disposition time goals]**  
The goal of each trial court should be to manage general civil cases, except those exempt under (g), so that they meet the following case disposition time goals:

(1) (Unlimited civil cases) The goal of each trial court should be to manage unlimited civil cases from filing so that:

(A) 75 percent are disposed of within 12 months;

(B) 85 percent are disposed of within 18 months; and

(C) 100 percent are disposed of within 24 months.

1       (2) (Limited civil cases) ~~Effective July 1, 1991,~~ The goal of each superior trial  
2       court should be to manage ~~general~~ limited civil cases from filing as  
3       follows so that:

4  
5       (1)(A) 90 percent are disposed of within 12 months,~~dispose of 90~~  
6       percent;

7  
8       (2)(B) 98 percent are disposed of within 18 months,~~dispose of 98~~  
9       percent; and

10  
11       (3)(C) 100 percent are disposed of within 24 months,~~dispose of 100~~  
12       percent.

13  
14       (3) (Individualized case management) The goals in (1) and (2) are guidelines  
15       for the court's disposition of all unlimited and limited civil cases filed in  
16       that court. In managing individual civil cases, the court must consider  
17       each case on its merits. To enable the fair and efficient resolution of civil  
18       cases, each case should be set for trial as soon as appropriate for that  
19       individual case consistent with rule 212(j).

20  
21       (g) **[Exceptional civil cases]** A general civil case that meets the criteria set out in  
22       rules 210 and 1800 and that involves exceptional circumstances or will require  
23       continuing review is exempt from the time standards in (d) and (f). Every  
24       exceptional case should be monitored to ensure its timely disposition  
25       consistent with the exceptional circumstances, with the goal of disposing of the  
26       case within three years.

27  
28       (h) **[Small claims cases]** The goals for small claims cases are:

29  
30       (1) 90 percent disposed of within 75 days after filing; and

31  
32       (2) 100 percent disposed of within 95 days after filing.

33  
34       (i) **[Unlawful detainer cases]** The goals for unlawful detainer cases are:

35  
36       (1) 90 percent disposed of within 30 days after filing; and

37  
38       (2) 100 percent disposed of within 45 days after filing.

39  
40       (j) **[Felony cases—processing time goals]** Except for capital cases, all felony  
41       cases disposed of should have a total elapsed processing time of no more than  
42       one year from the defendant's first arraignment in any court to disposition.  
43

1 **(k) [Misdemeanor cases]** The goals for misdemeanor cases are:

- 2
- 3 (1) 90 percent disposed of within 30 days after the defendant's first
- 4 arraignment on the complaint;
- 5
- 6 (2) 98 percent disposed of within 90 days after the defendant's first
- 7 arraignment on the complaint; and
- 8
- 9 (3) 100 percent disposed of within 120 days after the defendant's first
- 10 arraignment on the complaint.
- 11

12 **(l) [Felony preliminary examinations]** The goal for felony cases at the time of

13 the preliminary examination (excluding murder cases in which the prosecution

14 seeks the death penalty) should be disposition by dismissal, by interim

15 disposition by certified plea of guilty, or by finding of probable cause, so that:

16

- 17 (1) 90 percent of cases are disposed of within 30 days after the defendant's
- 18 first arraignment on the complaint;
- 19
- 20 (2) 98 percent of cases are disposed of within 45 days after the defendant's
- 21 first arraignment on the complaint; and
- 22
- 23 (3) 100 percent of cases are disposed of within 90 days after the defendant's
- 24 first arraignment on the complaint.
- 25

26 **(m) [Exceptional criminal cases]** An exceptional criminal case is not exempt from

27 the time standard in (j), but case progress should be separately reported under

28 the Judicial Branch Statistical Information System (JBSIS) regulations.

29

30 **(n) [Cases removed from court's control excluded from computation of time]**

31 If a case is removed from the court's control, the period of time until the case is

32 restored to court control should be excluded from the case disposition time

33 standards. The matters that remove a case from the court's control for the

34 purposes of this section include:

35

- 36 (1) Civil:
- 37
- 38 (A) The filing of a notice of conditional settlement under rule 225;
- 39
- 40 (B) An automatic stay resulting from the filing of an action in a federal
- 41 bankruptcy court;
- 42
- 43 (C) The removal of the case to federal court;

- 1  
2 (D) An order of a federal court or higher state court staying the case;  
3  
4 (E) An order staying the case based on proceedings in a court of equal  
5 standing in another jurisdiction;  
6  
7 (F) The pendency of contractual arbitration under Code of Civil  
8 Procedure section 1281.4;  
9  
10 (G) The pendency of attorney fee arbitration under Business and  
11 Professions Code section 6201;  
12  
13 (H) A stay by the reporting court for active military duty or  
14 incarceration; and  
15  
16 (I) For 180 days, the exemption for uninsured motorist cases under rule  
17 207(c).  
18

19 (2) Felony or misdemeanor:  
20

- 21 (A) Issuance of warrant;  
22  
23 (B) Imposition of a civil assessment under Penal Code section 1214.1;  
24  
25 (C) Pendency of completion of diversion under Penal Code section 1000  
26 et seq.;  
27  
28 (D) Evaluation of mental competence under Penal Code section 1368;  
29  
30 (E) Evaluation as a narcotics addict under Welfare and Institutions Code  
31 sections 3050 and 3051;  
32  
33 (F) 90-day diagnostic and treatment program under Penal Code section  
34 1203.3;  
35  
36 (G) 90-day evaluation period for a juvenile under Welfare and  
37 Institutions Code section 707.2;  
38  
39 (H) Stay by a higher court or by a federal court for proceedings in  
40 another jurisdiction;  
41  
42 (I) Stay by the reporting court for active military duty or incarceration;  
43 and

(J) Time granted by court to secure counsel if the defendant is not represented at the first appearance.

(o) [Problems] A court that finds its ability to comply with these standards impeded by a rule of court or statute should notify the Judicial Council.

### **§ 2.3. Municipal court case disposition time standards**

(a) ~~[Time standards for municipal and justice courts] Each municipal and justice court should process its cases to meet the time standards in this section.~~

(b) ~~[General civil cases] A general civil case is any civil case other than a small claims or unlawful detainer case. The goals for general civil cases are:~~

- ~~(1) 90 percent disposed of within 12 months after filing;~~
- ~~(2) 98 percent disposed of within 18 months after filing;~~
- ~~(3) 100 percent disposed of within 24 months after filing.~~

(c) ~~[Small claims cases] The goals for small claims cases are:~~

- ~~(1) 90 percent disposed of within 70 days after filing;~~
- ~~(2) 100 percent disposed of within 90 days after filing.~~

(d) ~~[Unlawful detainer cases] The goals for unlawful detainer cases are:~~

- ~~(1) 90 percent disposed of within 30 days after filing;~~
- ~~(2) 100 percent disposed of within 45 days after filing.~~

(e) ~~[Misdemeanor cases] The goals for misdemeanor cases are:~~

- ~~(1) 90 percent disposed of within 30 days after the defendants' first court appearance;~~
- ~~(2) 98 percent disposed of within 90 days after the defendants' first court appearance;~~
- ~~(3) 100 percent disposed of within 120 days after the defendants' first court appearance.~~

1  
2 **(f) ~~[Felony preliminary examinations]~~** The goal for felony filings, excluding  
3 ~~murder cases in which the prosecution seeks the death penalty, is disposition~~  
4 ~~(by certified plea, finding of probable cause, or dismissal) of:~~

5  
6 (1) 90 percent within 30 days after the defendants' first court appearance;

7  
8 (2) 98 percent within 45 days after the defendants' first court appearance;

9  
10 (3) 100 percent within 90 days after the defendants' first court appearance.

11  
12 **(g) ~~[Exclusion from computation of time in misdemeanor cases and felony~~**  
13 **~~preliminary examinations]~~** If a defendant is not represented by counsel at the  
14 first court appearance, any period of time granted by the court to secure  
15 counsel should be excluded from the case disposition time standards for  
16 misdemeanor cases under subdivision (e) and for felony preliminary  
17 examinations under subdivision (f).

18  
19 **(h) ~~[Purpose; problems]~~** The purpose of the time standards in this section is to  
20 improve the administration of justice by encouraging prompt disposition of all  
21 matters coming before the courts. These standards are not to be used as the  
22 basis for sanctions against any court or judge.

23  
24 A court that finds its ability to comply with these standards impeded by a rule of  
25 court or statute should notify the Judicial Council.

## 26 27 **~~§ 2.4. General exclusions to case disposition time standards~~**

28  
29 If a case is removed from the court's control, as defined in the regulations for  
30 statistical reporting adopted by order of the Chairperson of the Judicial Council, the  
31 period of time until the case is restored to court control should be excluded from the  
32 case disposition time standards.

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|    | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|----|--|-----------------|------------------------------------|---|---|
| 1. | Mr. John C. Adams III, J.D.<br>Hunt & Adams<br>Santa Ana, California | A               | N                                  | <p>I am pleased to sending this letter in support of the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>As discussed as a recent Bench and Bar meeting initiated by the Presiding Judge of the Orange County Superior Court (Hon. Frederick Horn), such flexibility may also relieve some of the time and expense burdens on civil trial panels during this time of reduced court budgets.</p> <p>For this reasons, I am wanted to communicate my</p> | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|    | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|----|---|-----------------|------------------------------------|---|---|
|    |   |                 |                                    | support for the proposed changes to the Rules of Court (SP03-09).   |   |
| 2. | Mr. James Alquist<br>Law Offices of Steven Zwick<br>Mission Viejo, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p> | The committee noted the commentator's support for the proposal. |
| 3. | Mr. Steven D. Archer<br>Attorney  | A               | Y                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil  | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|    | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>   |
|----|--|-----------------|------------------------------------|--|---|
|    | Robins, Kaplan, Miller & Ciresi LLP<br>Los Angeles, California   |                 |                                    | <p>Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p> |   |
| 4. | Ms. Laurie E. Barber, Chair<br>Complex Litigation<br>Committee of the Litigation<br>Section of the California<br>State Bar<br>San Diego County | AM              | Y                                  | The Complex Litigation Committee suggests the word "review" be deleted in the title of this subdivision (a) [of rule 212] and changed to "conference" so there is consistency in the name of the conferences. The Committee further suggests the rule above be changed as follows: "The court must review the case and schedule the initial case management conference no  | The committee disagreed. Rule 212 uses both "review" and "conference" because in all applicable civil cases review is required, but in some cases no conference may be necessary. |

SP03-09

Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)

|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response  |
|--|-------------|----------|-----------------------------|--|---|
|  |             |          |                             | <p>later than 180 days . . .”</p> <p>The Committee suggests this last sentence [of subdivision (b) of rule 212] be deleted as there are many instances when the initial case management conference is not the first event such as temporary restraining orders, injunctions, receiverships, and demurrer hearings.</p> <p>(2) (<i>Notice of the conference</i>) Notice of the date of the case management conference must be given <u>by the court</u> to all parties <u>who have appeared</u> no later than 45 days before the conference, unless otherwise ordered by the court <u>within 7 days after receipt of Notice, plaintiffs must serve notice on any party who has been served but not appeared.</u> The court may provide by local rule for the time and manner of giving notice to the parties.</p> <p>The Committee suggests the changes above [to item 2 of subdivision (b), rule 212] since the Court can not provide notice to all parties if they have not appeared in the case, and suggests that the plaintiff should ensure that all parties unknown to the court receive notice of the conference.</p> <p>The committee suggests [for subdivision (c) of rule 212] that the word “initial” be added before case management conference and “pretrial” be deleted and replaced with “final case management.”</p> | <p>The committee agreed that the sentence needed to be more accurate; instead of eliminating it, the committee added the words "case management" before "event."</p> <p>The issue of the type of notice to be given was not considered by the Blue Ribbon Panel nor included in the proposal that was circulated. The committee may consider this issue when it undertakes a comprehensive review of the case management rules in 2003-2004.</p> <p>The word "initial" has been added, and "pretrial" has been modified for clarity. The statement has been moved to an Advisory Committee Comment.</p> |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|    | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response   |
|----|--|----------|-----------------------------|---|--|
|    |  |          |                             | <p>The committee suggests the word “review” be deleted in this section (d).</p> <p>The committee suggests the word “review” be deleted in this section (e).</p> <p>The committee suggests for rule 212(e)(9) the following language should be added: “how the court handles discovery disputes; and whether a discovery referee is needed.”</p> <p>The committee suggests that for rule 212(f)(7) the parties should identify the dates they or their counsel are unavailable for trial.</p> <p>The committee suggests that for rule 212(g)(1) the word “review” be deleted in this section and the word “initial” should be added.</p> <p>The committee suggests for rule 212(g)(2), the words “before the initial case management conference, unless the court orders otherwise” be added to paragraph (2).</p> <p>The committee suggests that the following language be added to rule 212(j): <u>(26) The status of settlement negotiations between parties.</u></p> | <p>In some cases, the court may review the case without holding a conference; hence, "review" is retained in (d) and (e).</p> <p>This suggestion is beyond the scope of the proposal circulated, but may be considered in the future.</p> <p>The committee agreed and added this to new rule 212(f)(7).</p> <p>The committee disagreed with the deletion; the court may review the case without holding a conference.</p> <p>The committee did not regard this change as necessary.</p> <p>The committee disagreed. If negotiations would significantly affect the determination of the case, they may be considered under paragraph (25).</p> |
| 5. | Ms. Janis L. Barquist<br>Deputy City Attorney<br>Los Angeles, California | A        | N                           | It is very important the rules for trial setting take into account the new rules for scheduling motions for summary judgment. Motions for summary judgment  | The committee noted the commentator's support for the proposal.  |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|    | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>  |
|----|--|-----------------|------------------------------------|---|--|
|    |  |                 |                                    | are an important tool for eliminating litigation without merit. It has become more difficult to schedule such motions in a timely manner. It is in the interest of both litigants and the judiciary to promote well-founded motions and to offer parties the opportunity to have legal issues decided upfront. It appears that these proposed rules would make scheduling such motions somewhat easier. I think that this development promotes judicial economy and efficiency, and should be supported. Thank you. |  |
| 6. | Hon. Ronald L. Bauer<br>Rules and Forms Committee<br>Superior Court of California,<br>County of Orange | AM              | Y                                  | The Rules and Forms Committee of the Orange County Superior Court reviewed this item at their meeting of September 11, 2003, and finds that item (c)(2) "No unnecessary conferences" is offensive, insulting, paternalistic, and rude. Much the same could be same about many other parts of this proposal, but the rule surely reaches its nadir in the brilliant advice that "the court must consider each case individually on its own merits." This is the product of a "Blue Ribbon Panel of Experts?"         | The committee has modified rule 212(c) to state that a party should be required to appear at a case management conference only if an appearance is necessary for the efficient management of the case. Based on a case-by-case evaluation, courts may determine that one or more additional conferences should be held after the initial conference. |
| 7. | Mr. David H. Bent<br>Attorney<br>California State Auto Assn.<br>Inter-Ins. Bureau                      | A               | N                                  | I believe the statements contained in proposed rule 212(b)(4) and (c )(2) provide appropriate guidance to trial courts, without infringing upon the discretion of the courts to require appearances and schedule additional conferences. The factors set forth in subdivision (j) appear to me to be appropriate subjects for consideration and will enhance both judicial administration and the ends of justice in setting trial dates.   | The committee noted the support for rules 212(b)(4) and (c)(2). Some modifications have been made to improve these rules.  |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>  |
|-----|--|-----------------|------------------------------------|---|--|
| 8.  | Ms. Sonja Blomquist<br>Low, Ball & Lynch<br>San Francisco, California  | A               | N                                  | I agree with the proposed changes. The people who developed them share my concern that the lock step schedule did not fit the special circumstances of some cases.  | The committee noted the commentator's support for the proposal.  |
| 9.  | Hon. Arlene T. Borick<br>Court Commissioner<br>Superior Court of California,<br>City and County of San Francisco | AM              | N                                  | <p>San Francisco makes every effort to operate within the provisions of rule 212(b)(2) (Case management order without appearance) based upon the information provided by the parties in the case management statements.</p> <p>Under the current provisions of rule 212(g)(1), the case management statement is not due to be filed until 15 calendar days before the case management conference. This time frame does not allow sufficient time for review of the statements, issuance of the orders and receipt by counsel of the case management order canceling the case management conference. It is hereby requested that the "Timing of Statement" section of CRC 212(g)(1) be changed to 20 (twenty)-calendar days.</p> | This proposal to change the time for filing the case management statement will be considered as part of the overall review of the civil case management procedures in 2003-2004. |
| 10. | Mr. David I. Brown<br>Bailey and Brown<br>Sacramento, California   | —               | N                                  | I would like the committee to consider changes as to expert witnesses and disclosure; the timing of the disclosure does cause a number of problems for counsel (both plaintiff and defense); if the fast track rules could provide for some type of expert disclosure, that may be appropriate—a “preliminary” disclosure for fast track cases, and then a chance to supplement disclosure in the event of trial. Just a thought.   | The committee will consider the commentator's suggestions at a later time.   |
| 11. | Mr. David S. Brown<br>Torrence, California   | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil  | The committee noted the commentator's support for the proposal.  |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>                       | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|---|---|
|     |  |                 |                                    | <p>Case Management (SP03-09). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California. For this reason I support the proposed changes to the Rules of Court (SP03-09).</p> |   |
| 12. | S. Colin Brown<br>Santa Cruz, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines</p>   | The committee noted the commentator's support for the proposal. |

**SP03-09**  
**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response   |
|-----|--|----------|-----------------------------|--|--|
|     |  |          |                             | <p>and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p>       |  |
| 13. | Bruce Brusavich, President<br>Consumer Attorney of<br>California | A        | Y                           | <p>The Consumer Attorneys of California (CAOC) is pleased to support the proposed changes to the Rules of Court that apply to Fast Track Guidelines and Continuances (Item No. SP03-09; SP03-10; SP03-11.) CAOC credits the Blue Ribbon Panel with making important efforts to ensure that Fast Track guidelines and the grant of continuances will be administered with a heightened degree of informed flexibility. While Fast Track case management in California currently makes an important contribution to the efficient administration of our courts and works to prevent unnecessary trial delays, Consumer Attorneys believes that the proposed rule changes make it clear that courts have the option to consider</p> | The committee noted the support of the Consumer Attorneys of California for the proposals. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | <b>Commentator</b> | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>  |
|--|--------------------|-----------------|------------------------------------|---|--|
|  |                    |                 |                                    | <p>credible, real world factors in administering the guidelines instead of being lock into a rigid adherence to statistical thresholds.</p> <p>Personally, I often attend state bar functions where I hear elder trial lawyers talk about practicing law at a time when being a trial lawyer was a noble and civil profession. They recount that trial judges actually liked and respected trial lawyers and treated them courteously. The lawyers, on their part, treated the judges with the same courtesy and respect. Practicing law was serious business, but the business of living was also respected. Trial conflicts, vacations, weddings, illnesses, the death of family members or friend's funerals were events that both the bench and the bar could accommodate while still achieving an efficient disposition of the case load. The proposed rule changes make a significant effort to guarantee that civility and respect will always have a place in case management in California.</p> <p>Specifically, the proposed amendment to Cal. Rule of Court 212 (Trial Setting and Civil Case Management SP03-09) listing express criteria to be taken into consideration in the setting of a trial date makes a key contribution. Taking into consideration the number of causes of action, cross-complaints, affirmative defenses that will be tried, and the complexity of issues to be tried, and whether punitive damages are being sought and the amount of discovery that remains to be conducted are each examples of realistic factors that should enter the setting of a trial date. . . .</p> | <p>The committee supports the Blue Ribbon Panel's proposed amendments to rule 212, with some modifications, as explained in the report to the Judicial Council. It supports new rule 212(j) (on setting a trial date) in its entirety.</p> |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|---|---|
|     |  |                 |                                    | For the above reason the Consumer Attorneys of California are pleased to support the proposed rule changes on Fast Track guidelines and continuances (Item Nos. SP03-09; SP03-10; & SP03-11.)   |   |
| 14. | Mr. Sean M. Burke<br>Law Offices of Sean M. Burke<br>Newport Beach, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and</p> | The committee noted the commentator's support for the proposal. |

**SP03-09**  
**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|--|----------|-----------------------------|--|---|
|     |  |          |                             | SP03-11).  |   |
| 15. | Michael A. Byrne<br>McKay, Byrne & Graham                          | A        | N                           | The rule should not be so cut and dry and should allow for special circumstances.  | The committee noted the commentator's support for the proposal. |
| 16. | Mr. Richard P. Caputo<br>Attorney/Mediator<br>San Jose, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason, I support the proposed changes to the Rules of Court (SP03-09).</p> | The committee noted the commentator's support for the proposal. |
| 17. | Donn W. Christensen<br>Attorney<br>Christensen Law Office          | A        | N                           | While the proposed changes in SP03-09 and SP03-10 are both welcome and necessary changes, no proposal is more welcome or necessary than the proposed new   | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | CRC 204 and the amendments to CRCs 208 and 209 found in SP03-11. . . .   |   |
| 18. | Mr. Richard W. Clopine<br>Attorney<br>Redding, CA  | A               | N                                  | <p>I am in favor of the fast track changes. I believe there is a problem in Northern California created by a current system's lack of flexibility. This results in many cases being rushed to trial when they are simply not ready. Discovery is rushed and trial continuances are often requested. At times, only months exist to prepare a case. Motions for summary judgment are nearly impossible to schedule given the new notice requirements.</p> <p>I believe the proposals are better suited to allow both plaintiffs and defendants to properly prepare for trial.</p>   | The committee noted the commentator's support for the proposal. |
| 19. | Mr. Raymond Coates<br>President, California Defense Counsel<br>c/o Low Ball & Lynch<br>San Francisco, California | A               | –                                  | <p>I am an attorney practicing civil litigation in California for the past 35 years. I am former President of the Association of Defense Counsel of Northern California and am currently President of the California Defense Counsel. I am writing to support the proposed changes to the Trial Setting and Case Management, Motions and Applications for Continuances of Trial, and Trial Delay Reduction Rules.</p> <p>My practice is primarily in the San Francisco Bay Area courts. Having practiced under procedures prior to the Trial Delay Reduction Rules and after the Trial Delay Reduction Rules leads me to support the proposed changes. While no one supports a return to the years prior to the adoption of these rules, under</p> | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | <b>Commentator</b> | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b> |
|--|--------------------|-----------------|------------------------------------|---|---------------------------|
|  |                    |                 |                                    | <p>current practices, some judges view all cases the same and insist upon a setting for trial within one year of filing no matter what the circumstances of each particular case. Some judges do not care that a defendant is not served or brought into a case until six months after filing, that there are complicated law and motion hearings that need to be completed before setting for trial, that there is extensive discovery to be conducted, or that the interests of justice and the rights of the individual litigants do not warrant a trial within one year. Some courts refuse continuances even though circumstances warrant it. This has led to situations such as my current situation where I am set for ten trials between now and the end of the year and am double set on several dates despite protests.</p> <p>The proposed changes appear to be to introduce a factor other than time in the setting of cases for trial. The new rules make an effort to consider the individual case, the interest of the litigants, and the demands upon the attorneys in disposing of cases. I thus, believe that they are a vast improvement over the current situation.</p> <p>It is sometimes forgotten that the courts are in a "service industry." They exist to serve the dispensing of justice to litigants before them. This means that while it is important for cases to be moved along, it is more important that justice is fairly and equitably dispensed. These proposed rules go a long way in moving the courts in that direction. I heartily support them.</p> |                           |

**SP03-09**  
**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|--|----------|-----------------------------|--|---|
| 20. | Robert M. Cohen<br>Attorney<br>Los Angeles, California                         | A        | N                           | Thank god someone is finally putting some reason into the rigid fast track rules. I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts it is not the sole purpose for which are courts exist. The purpose of our courts and all the people that work in them is to serve the litigants by providing a place where our citizens can peaceably resolve their disputes. The purpose is not to have a place where judges can establish statistics on how quickly they can move or remove cases through the system. | The committee noted the commentator's support for the proposal. |
| 21. | Mr. James B. Cole<br>Partner<br>Bohl, Cole & Wohlgemuth<br>Ventura, California | A        | N                           | <p>The position many courts have taken with regard to the fast track deadline is ridiculous. Courts are to meet out justice, not dispose of cases as fast as possible. Most civil cases can be resolved within one year but parties' rights have been limited in too many cases due to the Court's belief that it must get a case out in one year. Good cause requests for continuance are routinely denied in the counties that our firm practices in regularly.</p> <p>On behalf of our entire firm, I request that you adopt the three proposals currently before you.</p>  | The committee noted the commentator's support for the proposal. |

## **Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SP03-09

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response   |
|--|-------------|----------|-----------------------------|--|--|
|  |             |          |                             | <p>parties and the court to evaluate whether a conference is necessary (see comment on proposed rule 212(b)(4), below), and then to use the conference to achieve specific case management goals, tailored to the particular case in question. This would give the court greater control over targeted and strategic management of caseloads, and maximize the benefit of the case management conference.</p> <p><b>b. Proposed Rule 212(b)(4)</b><br/>CAJ recommends that the new language in proposed rule 212(b)(4) not be adopted, and that the default in the rule be reversed so that it provides, in substance, that no appearance will be required for a case management conference unless ordered by the court. CAJ believes the rules should provide an opportunity for the parties to formulate a case management conference statement that provides the court with an opportunity to truly deliberate concerning the need for a case management conference in a particular case, and – as discussed above, in connection with proposed rule 212(b)(1) – to consider specific issues that need to be to be dealt with at any conference that might be ordered.</p> <p><b>c. Proposed Rule 212(c)(2)</b><br/>CAJ supports the proposed new language in its entirety.</p> <p><b>d. Proposed Rule 212(j)</b><br/>CAJ supports the proposed new language in its entirety.</p> | <p>The committee agreed that the language in rule 212(b)(4) should not be adopted because it is unnecessary. However, it did not agree that the rule should be further modified to provide that no appearance would be necessary unless ordered by the court. The presumption of the rule is that a case management conference will be held unless based on the court's review, it determines that no appearance is necessary.</p> <p>The committee has modified this language based on other comments.</p> <p>The committee has retained this language.</p> |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <p><b>e. Selection of trial dates</b></p> <p>Proposed rule 212(j)(12) states that the relevant facts and circumstances to be considered when setting a case for trial may include "[t]he trial date or dates proposed by the parties and their attorneys." CAJ recommends that the rules go further than that, by requiring the parties to submit proposed trial dates with their Form CM-110, and having the court take those dates into account as a first priority. CAJ recognizes that this rule change would require Form CM-110 to be modified, insofar as the form simply asks, in 6.c, for the "[d]ates on which parties or attorneys will <i>not</i> be available for trial." (emphasis added). Even if rule 212(j)(12) were to be adopted as proposed, it appears as though Form CM-110 would need to be modified to track the new language of rule 212(j)(12), and that other revisions to Form CM-110 might be appropriate, given the overall revisions to rule 212.</p> | <p>If rules 212(f)(7) and 212(j)(12) are adopted, the committee will undertake to revise form CM-110 to be consistent with the new rules provisions. The form will be reviewed as part of the overall review of the case management procedures to be undertaken in 2003-2004.</p> |
| 23. | Mr. David deRubertis, Esq.<br>The deRubertis Law Firm<br>Woodland Hills, California | A        | N                           | <p>As a trial attorney, I am thrilled to see that the Judicial Council is trying to relax the standards for timing of getting civil cases to trial. While I do remember the days where cases lingered for even beyond the five-year statute to bring cases to trial, the tide has turned entirely the other direction. Neither extreme promotes justice or effective administration of justice. A compromise between the two extremes is much preferred for many reasons. A compromise which these proposed revisions strike, will ensure that the previous system of never-ending civil cases will</p>  | <p>The committee noted the commentator's support for the proposal.</p>  |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | not recur. On the other hand, these rules will send a clear message to trial judge: they have the discretion to consider which of their cases require a one-year disposition, and which do not. This will benefit the courts, as well as the litigants. Also, it will give us an opportunity to restore some civility to the process of civil litigation, a value that has been lost on so many who struggle with the increasing time demands and pressures of the current system. As a trial lawyer who lives in this system every day, I strongly urge the Council to adopt these proposed changes.  |   |
| 24. | Mr. Carl E. Douglas<br>Law Offices of Carl E. Douglas<br>Beverly Hills, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of</p> | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>  |
|-----|--|-----------------|------------------------------------|---|--|
|     |  |                 |                                    | <p>flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p>   |  |
| 25. | Mr. Joel Douglas<br>Lawyer<br>Bonne, Bridges, Mueller,<br>O’Keefe & Nichols<br>Los Angeles, California         | AM              | N                                  | Eliminate unnecessary if not redundant last sentence of 212(b)(4), which may place undue emphasis and confusion re nonappearance. Appearance may avert one obdurate party from taking advantage of another; also, opportunity to resolve issues---perhaps even more true in limited cases (see rule 212 (b)(5)).  | The committee agreed that the last sentence is unnecessary and eliminated it.  |
| 26. | Mr. Jeffrey Ehrlich<br>Shernoff, Bidart & Darras<br>Claremont, California                                      | AM              | N                                  | <p>When I first began to practice law, it took 5 years to get to trial in every civil case in LA. No one wants to return to those times. But having some flexibility seems like a good idea.</p> <p>Additional Case Management Conference [is a] good idea, but eliminate non-appearance emphasis; that option is clear elsewhere in the proposal. Key is to get the judge to think, not act like automation.</p> | <p>The committee noted the commentator's support for the proposal.</p> <p>Proposed rule 202(b)(4) and (c) have been modified as described in the report.</p> |
| 27. | Mr. Steven R. English<br>Chair<br>Litigation Section of the<br>California State Bar<br>Los Angeles, California | A               | Y                                  | This letter is written on behalf of the Litigation Section of the Los Angeles County Bar Association. As you may know, the Litigation Section is comprised of nearly 3,000 lawyers whose practices are located in Los Angeles and the surrounding counties. We have reviewed and distributed for comment to our membership the proposed changes to various  | The committee noted the commentator's support for the proposal.  |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>  |
|-----|--|-----------------|------------------------------------|--|--|
|     |  |                 |                                    | <p>California Rules of Court and Standard 9 of the Standards of Judicial Administration.</p> <p>Please be advised that the Litigation Section supports the changes proposed by the Blue Ribbon Panel on the Fair and Efficient Administration of Civil Cases and urges the passage of those changes. Further, we are informed that the Los Angeles County Bar Association (“LACBA”) is also supporting the proposed changes and has further suggested certain modifications to the proposed changes. We have reviewed LACBA’s suggested modifications and concur in the suggested modifications.</p> |  |
| 28. | Mr. Justin D. Feldman<br>Associate Attorney<br>Yoka & Smith<br>Los Angeles, California | A               |                                    | Agreed without specific comment.   | No response required.  |
| 29. | Hon. David Flinn<br>Superior Court of California,<br>County of Contra Costa            | AM              | N                                  | <p>The changes re trial date setting and need for comprehensive review at the initial case management conference are good ones.</p> <p>I strongly oppose the proposed new sentence in subdivision (b)(4) as to waiving an appearance. While many of us do so on a case-by-case basis, this change will lead the bar to expect waiver and create ill feelings between counsel and those judges that feel an appearance is needed. Many of us now allow appearances by telephone and it is not therefore unreasonable to not waive.</p> <p>At some point the micro managing of the work of civil</p>   | <p>The committee noted the commentator's support for the proposal.</p> <p>The proposed new, final sentence of rule 212(b)(4) regarding waiver has been eliminated as unnecessary because, under the existing rule, courts may already waive appearances based on the submission of the parties and such other information as is available.</p> |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>   |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | <p>judges must cease. Frankly, it is somewhat insulting to be suggesting that we should do something when it is “fair and practical”. That is what we have been doing all along.</p> <p>I also oppose the addition of subdivision (c)(2) regarding “unnecessary conferences”. The same logic applies. I find that many judges do things differently from others and justice is not better served if every single variation is taken out of the system. Further, for the laziest of judges this change will invite ignoring case management responsibilities.</p> | <p>Rule 212(c)(2) has been modified and an Advisory Committee Comment added to indicate the circumstances under which an additional conference or conferences may be appropriate.</p> |
| 30. | Mr. Todd Gall<br>Young & Nichols<br>Bakersfield, California      | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.  | The committee noted the commentator's support for the proposal.   |
| 31. | Mr. Robert Gerard, President<br>Orange County Bar<br>Association | A               | Y                                  | Agreed without specific comment.   | No response required.   |
| 32. | Mr. Dale Givner<br>Attorney<br>Oxnard, California                | A               | N                                  | I believe that the rules should clearly state the primary concern of a trial judge is to see justice is done. I have personally had judges force and elder woman to trial even knowing the following month she would undergo surgery. Judge said doctor could talk about prognosis. Case settled; following month, surgery resulted in horrible results which she was not compensated, for a   | The committee noted the comment. (See also new rule 204 on scope and purpose of case management rules).   |

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|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|---|---|
|     |  |                 |                                    | <p>bad result was not expected.</p> <p>Other examples of injustice are abundant!</p>  |   |
| 33. | Mr. Steven P. Goldberg<br>Goldberg & Gille<br>Woodland Hills, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to trial Setting and Civil Case Management (SP03-09).</p> <p>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p> | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
| 34. | Lydia D. Goldman<br>California State Auto Assn.<br>Santa Rosa, California | A               | N                                  | Excellent changes. The fast track program is a good one, but the time constraints were getting more difficult, and often time the courts refused to consider the hardship on the attorneys in preparing their cases for trial in such a short time, particularly when a party was not served until 6-8 months after a case was filed.   | The committee noted the commentator's support for the proposal. |
| 35. | Mr. Ned Good<br>Good, West & Schuetze<br>Pasadena, California             | A               | N                                  | <p>I am pleased to support the proposed changes to Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> | The committee noted the commentator's support for the proposal. |

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|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
|     |   |                 |                                    | I am pleased to support the proposed changes to the Rules of Court (SP03-09).   |   |
| 36. | Dean B. Gordon<br>Law Offices of Dean B. Gordon<br>Fresno, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to trial Setting and Civil Case Management (SP03-09).</p> <p>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p> | The committee noted the commentator's support for the proposal. |
| 37. | Mr. Thomas Grady  | A               | N                                  | I am pleased to support the proposed changes to the   | The committee noted the commentator's                           |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|--|---|
|     | Law Offices of Thomas Grady<br>San Diego, California                           |                 |                                    | <p>Rules of Court applying to Trial Setting and Civil Case Management (SP03-09).</p> <p>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-09).</p> | support for the proposal.                                       |
| 38. | Mr. Dale S. Gribow<br>Law Offices of Dale S. Gribow<br>Palm Desert, California |                 |                                    | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09).</p> <p>While Fast Track case management makes an important contribution to the efficient administration</p>   | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|--|---|
|     |   |                 |                                    | <p>of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-09).</p> |   |
| 39. | Mr. Scott L. Harper<br>1430 Truxtun Avenue<br>Bakersfield, California | A               | N                                  | They make sense.   | The committee noted the commentator's support for the proposal. |
| 40. | Robert R. Heft<br>Daley & Heft<br>Solana Beach, California            | A               | N                                  | I am a senior partner at a 32 attorney litigation firm in San Diego county, the original home of fast track. The proposed changes relating to factors for consideration on trial continuances and the current hard rules on setting trials are long overdue. The proposed changes are very important and we all support them. The changes will promote justice, all the judges the ability to exercise the appropriate   | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | discretion, and help to promote the orderly and civil progress of a case toward trial. My experience is that the entire bar—plaintiffs' attorneys, defense attorneys, and the bench—want these changes as soon as possible. If the changes could be in effect sooner that would be even better. Thanks!  |   |
| 41. | Mr. John E. Hill<br>Law Offices of John E. Hill<br>Oakland, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09).</p> <p>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the</p> | The committee noted the commentator's support for the proposal. |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | Rules of Court (SP03-09).   |   |
| 42. | Mr. Allan L. Isbell<br>Clapp, Moroney et al.<br>Pleasanton, California       | A        | N                           | The existing system of a 1 year time period is unrealistic and becomes an obstacle in the practice of law, e.g., the personal injury arena.   | The committee noted the commentator's support for the proposal.   |
| 43. | Mr. Gabriel A. Jackson<br>Jackson & Wallace LLP<br>San Francisco, California | AM       | Y                           | <p>Our firm is heavily involved in civil litigation in California, representing over 100 defendants in mostly product liability litigation. We have read with great interest the Blue Ribbon Panel's findings and proposed modifications to the rules involving trial setting (No. SP03-09), motions for continuance (No. SP03-10), the Trial Delay Reduction Act (No. SP03-11), and ethics training (No. SP03-12). As the Council requested comments on the suggested proposals, we write to advise you that our office and our clients are very much in support of all of the proposals.</p> <p>In addition, it is our belief that the proposed rule changes should apply to <i>all</i> civil litigation, including complex litigation, whether it be construction defect, mass torts, or toxic tort cases such as mold, tobacco, and asbestos. Perhaps the rules could be amended so that it is clear that <i>all</i> civil litigation would be covered by these changes.</p> <p>We thank you for your time and consideration of our comments.</p> | <p>The committee noted the commentator's support for the proposal.</p> <p>The case management rules will be reviewed comprehensively in 2003–2004. Additional proposals will be considered at that time. However, under the current case management and case differentiation scheme, complex cases are handled differently than ordinary civil cases.</p> |
| 44. | Mr. David C. Kadin<br>Redwood Beach, California                              | A        | N                           | I am a sole practitioner and frequently rigid adherence to deadlines and the refusal to grant a continuance results in injustice to my client. It is important to   | The committee noted the commentator's support for the proposal.   |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>   |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | provide a degree of latitude in administering Fast Track guidelines so that circumstances such as my calendar conflicts or the fact that the nature and the extent my clients; injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better would better ensure fair  |   |
| 45. | Mr. Christopher A. Kall<br>Agnew & Brusavich<br>Torrance, California   | A               | N                                  | <p>Rule 212(c) provides the courts with appropriate discretion to require or forego multiple case management conferences based on the complexity of the case, rather than trying to fit all cases into a single framework.</p> <p>Rule 212(j) provides the court with much-needed criteria and flexibility to address the many factors that determine an appropriate setting of trial date.</p>  | <p>The committee has modified rule 212(c), but it will continue to provide courts with the discretion whether to hold additional conferences.</p> <p>The committee agreed.</p>  |
| 46. | Hon. Stephen B.R. Keller<br>Temporary Judge<br>Superior Court of California,<br>County of El Dorado<br>Placerville, California | AM              | N                                  | <p>The proposed amendment to CRC 212 is the latest in a series of amendments, which add seemingly endless lists of items to be considered in the case management process. . . .</p> <p>We question the benefit of rulemaking by lists. Trial setting rarely proceeds by analyzing lists of criteria. Rather, the inquiry focuses on preparation and avoiding undue delay. Typically, the Case Management Conference judge asks when the plaintiff will be ready for trial. Then, there is a discussion e.g., about whether the injuries have resolved. Then, the</p> | <p>The committee disagreed with the commentator regarding rule 212(j). It believes that this new provision listing criteria to be considered by the court in determining when to set a date for trial is useful for judges and litigants.</p> |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | <b>Commentator</b> | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>  |
|--|--------------------|-----------------|------------------------------------|---|--|
|  |                    |                 |                                    | <p>judge asks when the defense will be ready for trial. And there may be a discussion about what the defense has to do to prepare. The court sets the trial for when the parties are ready, so long as this does not involve undue delay. We suggest an alternative approach. For many years, the emphasis in case management has been on timely disposition; and surely this is important. But, equally important is proper preparation. Indeed, in El Dorado County, we view good case management as balancing timely disposition and proper preparation.</p> <p>In this regard, our local rule provides:</p> <p style="padding-left: 40px;">Local Rule 7.12.02. A. It is the policy of the Superior Court to manage all cases subject to these rules in order to insure proper preparation and timely disposition.</p> <p>In revising CRC 212(j), we believe it would be beneficial either to delete the 25 criteria and state, in their place, the policies which control trial setting or, at least, to supplement the criteria with a clear statement of policy.</p> <p>Also, we would eliminate the surplus language— at the initial case management conference or at any other proceeding at which the case is set for trial.</p> <p style="padding-left: 40px;">We propose the following:</p> <p style="padding-left: 40px;">CRC 212(j). In setting a case for</p> | <p>On the matter of trial setting, the committee regards rule 212(j) with its specific criteria to be preferable to a general policy statement.</p> <p>The timely disposition of the case is important under the proposed rules and standards. (See amended rule 209(b)(3) ("Each case should be set for trial as soon as appropriate for that case consistent with rule 212(j)").</p> |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response   |
|-----|---|----------|-----------------------------|---|--|
|     |   |          |                             | <p>trial, the court . . . <u>must give due consideration to timely disposition and proper preparation of the case</u> and all relevant facts and circumstances. (These may include: . . .)</p> <p>Rule 212(j) will be better if it focuses trial setting on what the Court is trying to accomplish which is to dispose of the case without undue delay as soon as the parties can reasonably prepare.</p>   |  |
| 47. | Hon. Suzanne N. Kingsbury<br>Presiding Judge<br>El Dorado County Superior Court | AM       | N                           | <p>1. Under rule 212(b)(1), there are other events that may occur prior to the case management conference, including ex parte application for appointment of a guardian ad item, requests for exemptions from fast track rules for certain case types (such as uninsured motorist cases), requests for publication of summons, etc. Therefore, I am not sure that it is completely accurate to say that the case management is the first "event" conducted by the court. You might consider revising this verbiage.</p> <p>2. I do not agree that rule 212(b)(4) should have the last sentence added. The term "whenever it is fair and practical" is subject to a variety of interpretations. Moreover, who is making this determination—the court or the parties? My court is in a mountainous area frequented by out of town vacationers who experience various events given rise to civil actions in our jurisdiction. Most out of town attorneys do not think it is fair or reasonable to appear here unless the</p> | <p>The committee agreed that this subdivision should be clarified by inserting the words "case management" before "event."</p> <p>The committee concluded that the proposed last sentence of rule 212(b)(4) is unnecessary and deleted it.</p> |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>    | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>   |
|-----|-----------------------|-----------------|------------------------------------|--|---|
|     |                       |                 |                                    | <p>weather or their personal schedules are conducive to attendance. As it is, I receive a multitude of letters asking for personal appearances to be excused from all kinds of court proceedings, including settlement conferences. We utilize Court Call and provide a variety of accommodations to litigants and counsel alike, but I can foresee a barrage of requests to be exempted from appearances of any kind. The judges and pro items that handle our case management conferences accomplish a lot of critical tasks at these hearings. They can always request a waiver of appearance in an exceptional situation, but I don't think it is a good idea to codify this principle. I agree with the reservations expressed by others as set forth in the "discussion" section preceding the proposed rule change.</p> <p>3. For the reasons set forth above, I think that the first sentence of rule 212 (c)(2) should be deleted. I do not set additional case management conferences unless I believe them to be necessary. If I believe them to be necessary, it is critical that counsel and/or the parties also appear.</p> <p>In all other respects, I agree with the proposed changes.</p> | Paragraphs (1) and (2) of proposed rule 212(c) have been combined and modified. |
| 48. | Mr. Lawrence M. Knapp | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09).</p> <p>While Fast Track case management makes an</p>  | The committee noted the commentator's support for the proposal.                 |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
|     |   |                 |                                    | <p>important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-09).</p> |   |
| 49. | Mr. Howard D. Krepack and Mr. Gary N. Stern<br>Gordon, Edelstein, Krepack, Grant, Felton & Goldstein<br>Los Angeles, California | A               | N                                  | We are pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines  | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | <p>and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason we are pleased to support the proposed changes to the Rules of Court (SP03-09).</p> |   |
| 50. | Mr. Michael V. Lamb<br>Schmid and Voiles<br>Los Angeles, California                  | A               | N                                  | As a medical malpractice trial attorney, I am either in trial or preparing for trial constantly. I am in total support of the proposals generated by the Panel, as I think that will have a wonderful effect on alleviating some of the problems that have arisen since the start of fast track, without obliterating the reasons for fast track. I truly hope that the Judicial Council will approve these proposals and allow them to be tried for a year or two to see their effect. Thank you for your consideration.  | The committee noted the commentator's support for the proposal. |
| 51. | Mr. William L. Larson, Esq.<br>Kiesel, Boucher & Larson<br>Beverly Hills, California | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and   | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|--|---|
|     |   |                 |                                    | <p>Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p> |   |
| 52. | Mr. Anthony F. Latiolait<br>Yoka & Smith<br>Los Angeles, California | A               | N                                  | No specific comment.   | No comment required.  |
| 53. | Ms. Melissa K. Leavister<br>Attorney<br>Reno, Nevada                | A               | N                                  | I believe these changes to the fast-track rules promote the interest of justice and allows parties appropriate input on how and when their cases are set for trial and under what circumstances a trial should appropriately be continued.   | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|       | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-------|---|-----------------|------------------------------------|--|---|
| 54. I | Ms. Diana Jessup Lee<br>Reicker, Pfau, Pyle, McRoy<br>& Herman LLP<br>Santa Barbara, California | A               |                                    | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motion and applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadline and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Tract guidelines is meritorious' however the strategic addition of a degree of flexibility as reflected in the proposed rule changes better ensure fair and efficient case management in California.</p> <p>For this reason I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p> | The committee noted the commentator's support for the proposal. |
| 55.   | Ms. Laura Liccardo<br>San Jose, California  | A               | N                                  | Arbitrary time limits defeat the very notion of justice. I have experienced a judge demanding that a complex case be tried the next week unless all trial counsel  | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | could agree upon a date within 90-day window.  |   |
| 56. | Hon. Peter D. Lichtman<br>Judge of the<br>Superior Court of California,<br>County of Los Angeles | A               | N                                  | I welcome the proposed changes. However, I do believe that too much emphasis has been placed on statistical record keeping. The judge's job is to dispense justice first and foremost and not to simply process cases in accordance with some formula. While there should be guidelines, it is unfortunate that the guidelines have been used as a productivity device, which only hurts our relationship with the bar. While I do support the changes, I believe that more should be done to de-emphasize the numbers crunching vis a vis the dispensation of justice.  | The committee noted the commentator's support for the proposal. |
| 57. | Ms. Elizabeth Lopez<br>Law Office of Elizabeth A. Lopez<br>Mission Viejo, California             | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.<br><br>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|--|---|
|     |   |                 |                                    | <p>consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p>   |   |
| 58. | Mr. John J. Machado<br>John J. Machado, Inc.<br>Modesto, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>   |
|-----|---|-----------------|------------------------------------|--|---|
|     |   |                 |                                    | I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).  |   |
| 59. | Steven M. Maslauskis<br>Kirtland & Packard<br>El Segundo, California                        | A               | N                                  | I feel that these changes will greatly improve the resolution of cases while at the same time recognizing the dockets cannot become as clogged as they have in the past.   | The committee noted the commentator's support for the proposal.   |
| 60. | Justice McConnell<br>Associate Justice<br>Court of Appeal, Fourth<br>District, Division One | AM              | N                                  | <p>In 1987 the San Diego Superior Court became the first court in California to adopt civil delay reduction rules. The purpose of the program was to deal with the growing backlog of civil cases waiting trial often three or four years from the date of filing. The plan was to implement a case management system that called upon the judiciary to take an increasingly more active role in monitoring a case from to end. The purpose was to provide to the public a forum for resolution of disputes that was reasonably prompt. To that end, the Superior Court adopted goals and timelines for resolution of civil cases that had been proposed by the American Bar Association.</p> <p>The success of the program is well known. While at first the change was painful for both the bench and bar because it required a complete change in the management of the pace of civil litigation, the bar and bench soon adapted. The expectation is now that a civil lawsuit will be resolved expeditiously unless there are circumstances that preclude that. I hope we do not lose sight of the importance of speedy</p> | <p>The committee considered Justice McConnell's comments on the history of trial delay reduction.</p> <p>The committee believes that the amended rules and standards will continue to provide for the efficient and timely resolution of cases.</p> |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>  |
|-----|--|-----------------|------------------------------------|--|--|
|     |  |                 |                                    | <p>resolution to the public we serve.</p> <p>The proposals from the Judicial Council by and large do not detract from the program but a few observations seem appropriate. It is proposed that Rule 212 be amended to add language that the court, "when it is fair and practical" should consider waiving the requirement of a personal appearance. I think this is completely redundant to the language already in the rule. Nonetheless, this language may create pressure on the trial judge to dispense with the requirement of personal appearance, yet all the literature and studies done in the area suggest that personal appearance is critical to aiding in an early resolution of civil cases. I suggest deleting the phrase. . . .</p> <p>[Justice McConnell's specific comments on SP03-11 are included in the chart on that proposal.]</p> <p>Overall I was relieved to see the actual proposals were not exactly as portrayed in the press. Thank you for the opportunity to comment.</p> | <p>The committee has modified rule 212(b)(4) by eliminating the proposed last sentence as unnecessary. Existing rule 212 assumes that a case management conference will generally be held, but also provides that if the court, based on the submissions of the parties and other information, determines that an appearance is not necessary, the court may issue a case management order and notify the parties that no conference is necessary. In various circumstances, the latter alternative may be preferable and courts should use it.</p> <p>[The committee's responses to Justice McConnell's specific comments on SP03-11 are included in the chart on that proposal.]</p> |
| 61. | Mr. Raymond J. McMahon<br>Law Offices of Bonne,<br>Bridges, Mueller, O'Keefe &<br>Nichols<br>Santa Ana, California | A               | N                                  | <p>Thank you for the opportunity to accept comments on SP03-09, SP03-10, and SP03-11. I strongly support the proposed changes to these Rules of Court. As a trial attorney, it has been increasingly difficult to perform in a professional manner with the unreasonable time restraints placed upon attorneys by the bench. As currently set up, the rules limit and/or prevent routine civil courtesies, which should not be abandoned. The parties are often forced into incurring</p>  | The committee noted the commentator's support for the proposal.  |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>   |
|-----|---|-----------------|------------------------------------|--|---|
|     |   |                 |                                    | <p>unnecessary costs and wasting resources because they must comply with arbitrary time deadlines.</p> <p>I urge the council to promote cooperation between the bench and bar as opposed to permitting an arbitrary, adversarial process. All parties involved would benefit by the change in the proposed rules.</p>  |   |
| 62. | Kevin McNaughton<br>Schaffer, Lax, McNaughton & Chen<br>Los Angeles, California           | A               | N                                  | <p>The panel recommendations set forth a range of important common sense circumstances that a court should be required consider when setting a civil case for trial: The type and subject matter of the action, availability (or not) of statutory priority, likely motions per C.C.P. section 425.13, the number of parties, and complexity of issues, discovery, service, and at issue consideration and regarding all critical issues that are not now formally taken into account. Rigid application “one size fits all” time deadlines is counter-productive and does not foster the ends of justice.</p> | The committee noted the commentator's support for the proposal.   |
| 63. | Ms. Robin Meadow<br>President<br>Los Angeles County Bar Association<br>Los Angeles County | AM              | Y                                  | <p>The report of our Task Force on Continuances, which our Board of Trustees unanimously adopted on August 27, 2003, including its suggested modifications to the recommendations of the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases (Judicial Council proposals SP03-09, SP03-10, and SP03-11), constitute our response to the invitation for public comment on these special cycle proposals.</p> <p>Our Litigation Section also unanimously endorses the</p>   | The committee noted the Los Angeles County Bar Associations' general support for the Blue Ribbon Panel's proposals and its suggested modifications to the proposals. [The report stated: "On August 27, 2003, the Board voted unanimously in favor of the Task Force opinion that the LACBA strongly endorse and urge the Judicial Council to approve the proposed changes."] |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | <b>Commentator</b> | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>   |
|--|--------------------|-----------------|------------------------------------|---|---|
|  |                    |                 |                                    | <p>report of the Task Force on Continuances, and it expects to submit its separate letter of endorsement to the Judicial Council.</p> <p>Our Board’s representative from the Beverly Hills Bar Association, Cynthia Pasternak, has asked us to include this statement on behalf of BHBA: “As the representative of the Beverly Hills Bar Association to the Los Angeles County Bar Association’s Board of Trustees and on behalf of BHBA, I ask you to advise the Judicial Council that BHBA supports in principle the Blue Ribbon Panel Recommendations. However, because of the September 12th comment deadline, we are unable to fully evaluate LACBA’s additional suggestions, and we therefore cannot endorse them at this time.”</p> <p>We appreciate the time, research, and effort of the Blue Ribbon Panel that resulted in the development of the proposed recommendations. Thank you for the opportunity to comment.</p> <p>The main points in the report regarding SP03-09 are as follows:</p> <ul style="list-style-type: none"> <li>• Include in the proposed changes to rule 212(a) that the Case Management Conference occur no earlier than 90 days after the filing of the initial complaint.</li> <li>• Delete the reference to "unless otherwise ordered</li> </ul> | <p>This proposal is beyond the scope of the Blue Ribbon Panel's proposals. It will be considered by the committee in the future as part of its comprehensive review of the case management rules.</p> |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response  |
|--|-------------|----------|-----------------------------|--|---|
|  |             |          |                             | <p>by the court" in rule 212(b)(2) with respect to the notice to be given of the case management conference.</p> <ul style="list-style-type: none"> <li>• Include a provision in rule 212(e) that unless stipulated to by the parties, the court should not set time limits on discovery that differ from those imposed by the Code of Civil Procedure.</li> <li>• Include the word "proposed" in rule 212(f)(1) regarding the discovery schedule discussed in the meet and confer that precedes the case management conference.</li> <li>• Specify in rule 212(i)(8) that the defendants to be dismissed or severed by those that have been named in the litigation.</li> <li>• Modify rule 212(i)(9) to provide that the names and addresses of the trial attorney only be incorporated in the Case Management Order if that attorney has been selected.</li> <li>• Modify rule 212(k) to provide for stipulations between the parties as to issues relating to the</li> </ul> | <p>This proposal is beyond the scope of the Blue Ribbon Panel's proposals. It will be considered by the committee in the future as part of its comprehensive review of the case management rules.</p> <p>This proposal is beyond the scope of the Blue Ribbon Panel's proposals. It will be considered by the committee in the future as part of its comprehensive review of the case management rules.</p> <p>This proposal is beyond the scope of the Blue Ribbon Panel's proposals. It will be considered by the committee in the future as part of its comprehensive review of the case management rules.</p> <p>This proposal is beyond the scope of the Blue Ribbon Panel's proposals. It will be considered by the committee in the future as part of its comprehensive review of the case management rules.</p> <p>This proposal is beyond the scope of the Blue Ribbon Panel's proposals. It will be considered by the committee in the future as part of its comprehensive review of the case management rules.</p> <p>This proposal is beyond the scope of the</p> |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>   |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | <p>Case Management order.</p> <p>[Additional comments regarding SP03-10 are included in the chart on that proposal.]</p> <p>Although we believe that the foregoing modifications will enhance the effectiveness of the proposed changes, we further strongly urge the passage of the blue Ribbon Panel's proposed changes even if these modifications are not adopted.</p>   | Blue Ribbon Panel's proposals. It will be considered by the committee in the future as part of its comprehensive review of the case management rules.   |
| 64. | Mr. Michael G. Miller<br>Partner<br>Perry, Johnson, Anderson,<br>Miller & Moskowitz, LLP<br>Santa Rosa, California | A               | N                                  | No specific comment.   | No response required.   |
| 65. | Ms. Lisa Mitts Patrick<br>Attorney<br>Law Office of Lisa Mitts<br>Patrick<br>Fullerton, California                 | AM              | N                                  | <p>I am pleased to have an opportunity to comment on the proposed changes . . . .</p> <p>For now, without expedited discovery, and without good ADR procedures before Trial, Trial within one year and without a reasonable approach to needed continuances is wholly unrealistic, and unfair to all litigants . . . .</p> <p>With regard to Case Management Conferences and the attempt to limit required appearances, I am completely in favor of the same . . . I believe giving the Judge's discretion to limit (or waive some) such appearances is wonderful. However, I do not believe that the proposed amendment to subdivision (f)—</p> | <p>The committee noted the commentator's support for the proposal.</p> <p>The committee has modified rule 212(b) and (c) somewhat, and added an Advisory Committee Comment that clarifies the circumstances under which a party should be required to appear.</p> |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>   |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | suggesting that the parties meet and confer before the conference about what dates they are or are not available for Trial—is warranted or even helpful, in that trying to set a Trial date at the initial conference is truly burdensome on the attorneys whose schedules change and fluctuate frequently by the time of Trial . . .  | The committee disagreed and retained rule 212(f)(7), adding that parties should also discuss the dates when they are not available for trial and the reasons why not.   |
| 66. | Hon. Eileen C. Moore<br>Associate Justice<br>California Court of Appeal<br>Santa Ana, California | AM              | N                                  | <p>I applaud the work of the Blue Ribbon Panel. It is apparent from the wording of the proposed changes that the panel’s main concert is access to justice and fairness.</p> <p>I endorse most of the proposed changes to proposed rule 212. I would change the wording a little, however, in subdivisions (b)(4), (f)(7), and the preface to subdivision (j). The following are my proposed changes and the reasons:</p> <p>1. Rule 212(b)(4):</p> <p>Each case has individual requirements. Thus, for example, if both sides have informed the court some sort of alternative resolution is warranted, the court should have the discretion to defer the comprehensive review mandated by subdivision (b)(1), and waive the requirement for appearance. I am concerned, however, that counsel may wish to address the court about some issue; but the court does not think it is necessary. Thus, counsel would then have to either forego bringing the matter before the court or undertake the expense of a motion. The change I</p> | <p>The committee noted Justice Moore's general support for the proposal, and reviewed her specific suggestions for changes.</p> <p>The committee considered the proposed new sentence. It decided that instead of modifying it as suggested, the sentence should be eliminated. Subdivision (b)(4) is sufficiently clear without it and it appears not to be necessary.</p> |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response  |
|--|-------------|----------|-----------------------------|--|---|
|  |             |          |                             | <p>would make would be as follows (underlined words to be added):</p> <p>“Whenever it is fair and practical <u>and requested by counsel</u>, the court should consider waving the requirement of an appearance.”</p> <p>2. Rule 212 (f)(7):</p> <p>As a trial judge, I always found it helpful to find out about planned vacations for the attorneys. Then, I would set the trial date at times neither side was planning to be away. If I knew that one of the attorneys was pregnant, I would also inquire about planned times away from work. Thus, I heartily agree the court should identify dates when counsel will be available so that trial dates did not interfere with planned absences.</p> <p>The tougher identifying dates, however, occur when counsel is asked to state when he/she will be in trial. Some attorneys come into court and have every single Monday for the next two years marked for a trial on his or her calendar. Apparently, some clients prefer to have a particular attorney try all cases, even though there are many other attorneys in the firm. These situations can be difficult. Nonetheless, the proposed rule simply calls for the court to require identification of dates when parties are available. It does not require that the trial judge defer to all full calendars. In fact, the proposed rule would likely assist the appellate courts when a party asks for extraordinary relief,</p> | <p>The entire sentence has been eliminated as unnecessary.</p> <p>The committee generally agreed with these comments.</p> |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | <p>since there would be a more complete record to determine whether or not there had been an abuse of discretion.</p> <p>Thus, I think the wording of this proposed change is sufficient, but it might be wise to make the following minor change of underlined words to be added:</p> <p align="center">“Identifying the dates on which all parties and their attorneys are available for trial, <u>noting all reasons for claims unavailability.</u> . . .”</p> <p>3. Rule 212(j):</p> <p>There is something about the wording of the initial paragraph of this proposed subdivision which is a little offensive from a judicial standpoint. It seems to somehow assume judge would ordinarily not consider all the facts and circumstances that are relevant. In fact, it would be silly to reconsider some of these factors when setting the case for trial, when they had already been previously considered at an earlier conference, and the only issue is the trial setting. Perhaps if it read something like the following, it would be less offensive:</p> <p align="center"><u>“In setting a case for trial, the court may consider all relevant circumstances, including the following:”</u></p> | <p>The committee modified rule 212(f)(7), but in a somewhat different manner. It added after "available" the words "or not available," and at the end of the subpart it added the words "including the reasons for unavailability."</p> <p>The committee recommends retaining the initial paragraph as proposed. It clarifies (1) that the rule applies not only at the case management conference, but any other proceeding at which the case is set for trial, and (2) that the court must consider all facts and circumstances that are relevant, which may include the criteria listed.</p> |
| 67. | Hon. Dennis E. Murray<br>Presiding Judge<br>Superior Court of California, | AM       | N                           | Rule 212(b)(1) indicates, "At the initial conference, the court must review the case comprehensively and decide whether to assign the case to an alternative  | If the first conference is held between 120 and 180 days after filing, it should generally be feasible to review the case   |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | Commentator      | Position | Comment on behalf of group? | Comment  | Committee Response   |
|--|------------------|----------|-----------------------------|--|--|
|  | County of Tehama |          |                             | <p>dispute resolution process . . . ." As a practical matter, it is frequently very difficult at the first case management conference to review the case "comprehensively," unless the first case management conference is delayed. But, delaying the first case management conference frequently makes it more difficult to comply with delay reduction time limits.</p> <p>The proposed changes to rule 212(c)(2) starts with, "Parties must not be required to appear at conferences unnecessarily." The proposal goes on to state, "In most cases, one case management conference and one pretrial conference will be sufficient." First, I submit that that statements regarding what "will be sufficient" should not be in the Rules of Court. It is not a statement of a rule and would more appropriately be in standards of judicial administration. If trial courts are expected to manage civil litigation, it is counter-productive to have rules specifying how many case management conferences we should hold. Management of civil litigation not only depends upon whether the cases are complicated or difficult, but also on a number of other issues, including the particular attorneys involved in litigation.</p> <p>I support the language in the rules that states, "In determining whether to hold conferences, the court must consider each case individually on its own merits."</p> <p>I believe that the language about how many case</p> | <p>comprehensively. Also, if a conference is held at that time, it should be practical to comply with the trial delay reduction goals.</p> <p>The committee has modified rule 212(c) by combining subparts (1) and (2), by revising some of the language, and by moving parts of the proposed rule into an Advisory Committee Comment, which is a more appropriate place for these statements.</p> <p>This language has been retained.</p> <p>This language has been modified and placed in an Advisory Committee Comment.</p> |

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**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response   |
|-----|--|----------|-----------------------------|--|--|
|     |  |          |                             | management conferences should be held is counter-productive. Case management conferences can be an imposition upon counsel, but for the most part, I believe that can be adequately dealt with by allowing telephonic appearances at case management conferences, unless otherwise ordered.  |  |
| 68. | Michael L. O'Dell<br>Clifford & Brown<br>Bakersfield, California                                   | A        | N                           | <p>I appreciate the work done by the blue ribbon panel and would strongly urge the Judicial Council to adopt the proposed changes. The changes are a reasonable compromise leaving the administration of justice and operation of reasonable compromise leaving the administration of justice and operation of the courts in the hands of the judiciary, while making some reasonable limited accommodations for trial attorneys where some courts have tended to be abusive in the past.</p> <p>Thank you for your consideration.</p>   | The committee noted the commentator's support for the proposal.  |
| 69. | Ms. Jody Patel<br>Court Executive Officer<br>Superior Court of California,<br>County of Sacramento | AM       | N                           | <p>I submit the following additional comments regarding the recommendations of the Trial Court Presiding Judges and Court Executives Advisory Committee. (See Comment 104 below.)</p> <p><u>Rule 212(b)(1)</u>: The amendment in the last sentence of CRC 212(b)(1) limits the court to make other orders or holds hearings as deemed necessary. It says that the initial case management conference should be the first event conducted by court order in each case, except for orders to show cause. The court should be able to order appearances as it sees fit. Although it has no impact on our court now, in the future we would need</p> | The committee agreed that the last sentence of rule 212(b)(1) should be written to be clearer. It has added the word "generally" before "be" and added "case management" before "event." The intent of the amended rule is to provide that the initial case management conference should generally be the first case management event except for |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | <p>to ensure that all matters set for hearing by court order before they can be in the form of an order to show cause. If this section of the rule is approved as-is, we would simply need to keep this in mind when making changes to our current process or only set OSC's.</p> <p><u>Rule 212(b)(4)</u>: This rule helps us as we are currently using the tentative ruling system to reduce the number of appearances.</p> <p><u>Rule 212(c)(2)</u>: No real impact. This is to assist attorneys by reducing appearances.</p> <p><u>Rule 212(g)(1)</u> (timing of statement): Although there are no amendments to this rule, I recommend that it be amended so that the statement is due 30 days before the Case Management Conference. This would allow staff the time needed to review statements and allow the court to further reduces the number of appearances required. In addition, there is a need to make revisions to the CM-110 form. Don't know if we have input at this time.</p> <p><u>Rule 212(j)</u>: No real impact. This is to assist the attorneys in getting their motions granted. I am sure that they will expect that the court will grant motions based on the issues listed.</p> | <p>hearings on orders to show cause regarding failure to serve pleadings and related matters. Other case management-type conferences should not be held before the conference prescribed under rule 212.</p> <p>Comment is noted.</p> <p>Comment is noted.</p> <p>The committee will be undertaking a general reviewing of the case management rules in 2003–2004. It will consider this and other proposals relating to the time for service of the case management statement at that time.</p> <p>Comment is noted.</p> |
| 70. | Mr. Gary M. Paul<br>Paul & Janofsky<br>Santa Monica, California | A        | N                           | As a very busy and involved trial attorney, I wanted to take this opportunity to advise you of my support for the proposed changes and to say that it will greatly  | The committee noted the commentator's support for the proposal.   |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|---|---|
|     |  |                 |                                    | <p>affect, in a positive fashion, the system of justice and the rights of my clients.</p> <p>It has been my sad experience that the present rules are too inflexible and lead to the imposition of onerous time constraints. On occasion, I have had to literally beg trial courts for some flexibility because I have been double, or even triple set for trial on the same day in three different courts. The difficulty of having to prepare for three trials simultaneously cannot be overstated, especially when I am the only trial attorney in my firm. While I believe the fast track rules are needed, the additional flexibility of the proposed rules will be greatly beneficial to the rights of my clients.</p> <p>Thank you for reading my response and thank you for your hard work.</p> |   |
| 71. | Ms. Katherine B. Pene<br>Briskin, Latzanich & Pene<br>Sherman Oaks, California                 | A               | N                                  | These revisions have been needed for a long time. I represent both plaintiffs and defendants and serve as a mediator. I have seen many instances of injustice result from inflexible rules, and much wasted time and effort. Justice rushed is justice denied.  | The committee noted the commentator's support for the proposal. |
| 72. | Hon. Wayne L. Peterson<br>Judge of the Superior Court<br>of California, County of San<br>Diego | AM              | Y                                  | <p>I am responding on behalf of the civil division judges of the San Diego Superior Court with respect to the proposed changes to the rules of case management.</p> <p>To begin with, we adopt the views expressed in the attached email from Justice McConnell. (See Comment 60 above.)</p>  |   |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | Commentator | Position | Comment on behalf of group? | Comment   | Committee Response  |
|--|-------------|----------|-----------------------------|---|---|
|  |             |          |                             | <p>San Diego has a lengthy and successful history in effective civil case management and we offer the following comments based on that experience.</p> <p>The case management conference and a firm trial date are the most important aspects of a successful case management program. As a sub-set of the case management conference, the most productive feature of the meeting is the personal presence of the attorneys. Therefore, any relaxation of the rules, which would permit the attorneys to avoid the hearing, is counter-productive to the efficient management of civil cases.</p> <p>[Justice McConnell's specific comments on proposal SP03-11 are included in the chart on that proposal.]</p> <p>It is rare that a trial judge in a busy cosmopolitan court has the opportunity to review case management conference statements before the calendar is actually called. It is almost as rare that attorneys file the statements five days before the hearing. Often the CMS's are continued for a myriad of reasons. With these realities in mind, to change the rule to require the statements fifteen days in advance is "make-work"</p> | <p>The committee recognizes that conferences and firm trial dates are important. The rules will continue to give the court discretion to require appearances at conferences, but will also state that parties should be required to appear only when their appearance is necessary for the effective management of the case. While efficient management is a very important goal, it should not result in requiring parties to appear at conferences when this is not necessary for the efficient management of a case. The amended rules strike the proper balance on this matter.</p> <p>[The committee's response to the comments on SP03-11 are included in the chart on that proposal.]</p> <p>The reason that rule 212(g) was recently amended to provide that case management statements must be filed 15 rather than 5 days before the conference was to give the courts sufficient time to review the statements and to determine whether or not an appearance was necessary. If not, the court may issue an order without requiring</p> |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>   |
|-----|--|-----------------|------------------------------------|---|---|
|     |  |                 |                                    | <p>for the lawyers, without any practicable benefit to the judge. Leave the filing requirement at five days.</p> <p>The balance of the proposed changes are satisfactory with these added notes: (a) incorporating Standard 9 into the rules is appropriate; (b) the criteria for setting trial dates is appropriate; and (c) the criteria for granting continuances is appropriate.</p>  | <p>the parties to appear. This process will be reviewed by the committee as a part of its comprehensive review of the case management rules in 2003–2004.</p> <p>The committee noted the support for these proposed changes to the rules and standards.</p> |
| 73. | Hon. Alan Pineschi<br>Presiding Judge<br>Superior Court of California,<br>County of Placer | A               |                                    | Agreed without specific comment.  | No response required.   |
| 74. | Ms. Karen Reak<br>Ballard, Rosenberg, Golper<br>and Savitt<br>Universal City, California   | A               | N                                  | No specific comment.  | No response required.   |
| 75. | Mr. Russell Reiner<br>Reiner, Simpson, Timmons<br>& Slaughter<br>Redding, California       | A               | N                                  | <p>I would like to thank the committee for the work they have done on this important subject.</p> <p>I understand that there may be some reluctance on the part of some of the judges in Northern California to give their approval to these proposals because they feel that they will have less control over the cases. Our practice encompasses the entire Northern California area and we have therefore seen the different approaches to the delay reduction and case management procedures employed by the various courts in this region. Some of these courts attempt to exercise stern control over the cases with the intention of seeing that their vision of the objectives of delay</p> | The committee noted the commentator's support for the proposal.   |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | <b>Commentator</b> | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b> |
|--|--------------------|-----------------|------------------------------------|--|---------------------------|
|  |                    |                 |                                    | <p>reduction are reached. It has been our experience that it is in these jurisdictions that we often find that the courts have an unworkable number of cases set for trial during any particular period of time. This accounts for repeated “bumping” of trial dates when the calendars are overbooked. It has also been our experience in these jurisdictions that matter such as discovery disputes become immediately “critical!” because of the rigid schedule imposed by the court. In these situations, more motion work and ex parte applications abound. In addition, in some of these courts, despite the stern admonitions by the courts about the trial dates and what must be accomplished and filed prior to trial, the case actually going out to trial as scheduled rarely occurs.</p> <p>On the other hand, we have seen that courts that are more open to discussion about particular aspects of a case that may require it to be given more leeway or special attention to develop, have a greater success rate in getting cases settled before they are rushed to trial, and the trial dates are more definite. Interestingly, some of these courts actually seem to have a greater volume of cases than the aforementioned courts.</p> <p>In my view, the proposed guidelines will enhance the court’s ability to “manage” the cases that come before it. If the case management conference is utilized as a time to air any particular concerns about the complexity of the case, pleading issues, issues concerning new potential parties, the status of the</p> |                           |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|--|---|
|     |   |                 |                                    | <p>medial condition of the party, the problems that have been encountered in discovery or obtaining discovery, then the court can more accurately forecast when the issues will be resolved so that the case can proceed to trial. Certainly, counsel may attempt to abuse the system, but such attempts, particularly in North State, usually do not go unnoticed and when the behavior is repeated, the courts tend to tighten up the standards in dealing with the particular participant.</p> <p>With this greater degree of management, there should be a reduction in the number of continuance requests that are made and that are granted. In addition, it is anticipated that fewer discovery disputes will be deemed immediately critical, requiring court intervention, if the case is scheduled with these potentials in its management plan.</p> <p>All in all, with some pro-active work on the part of the courts and counsel at the case management conference, or during the initial phases of the litigation, the courts will actually exercise more control over their calendars and the cases before then.</p> <p>I heartily endorse the proposed changes.</p> |   |
| 76. | Mr. Philip L. Reznik<br>Ballard, Rosenberg, Golper<br>R. Savitt<br>Universal City, California | A               | N                                  | I strongly support the proposed changes.   | The committee noted the commentator's support for the proposal. |
| 77. | Mr. Todd A. Roberts<br>Ropers, Majeski, Kohn &  | A               | N                                  | Under the current system, there is insufficient consideration given to the impact the rules have on the  | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
|     | Bently<br>Redwood City, CA  |                 |                                    | <p>rights of the parties and the practical constraints on the attorneys involved in civil cases. Most attorneys are motivated to complete discovery and resolve cases as soon as practicable.</p> <p>Unfortunately, many courts are entirely unsympathetic to family emergencies, unexpected difficulties in pursuing and completing discovery, and seem only concerned with the court's own calendar. I have had more than one family vacation ruined because of the courts unwillingness to be flexible in scheduling matters.</p> <p>Practicing law is a difficult profession. In my experience, most attorneys are responsible and attempt to resolve their cases as quickly as practicable. The fast track rules, however, only make it more difficult for legal professionals. This is especially true in light of the recently adopted changes to the summary judgment statute. I have had cases where it was literally impossible to file a motion for summary judgment because the fast track rules and notice requirements were so restrictive.</p> |   |
| 78. | Mr. David A. Rosen<br>Rose, Klein & Marias<br>Los Angeles, California | A               | N                                  | As with SP03-09 will provide welcome guidance to the Trial Courts with respect to the exercise of their discretion in connection with Trial Settings, Case Management deadlines, Continuances, and Case Disposition Time Standards. Fast Track case management is of critical benefit to the Court, the parties, and counsel. However, such goals must be balanced so that substantial justice occurs and due process is served.  | The committee noted the commentator's support for the proposal. |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <p>The proposed changes to the Rules of Court in these areas promote efficient administration of cases, but allow and encourage trial courts consider all relevant factors present in the individual case which may greatly effect justice and due process. Currently, there is, quite often, a “one size fits all” component to Fast Track administration as a result of a perceived lack of discretion available to the Trial courts.</p> <p>I am, therefore, completely in support of SP03-9, 10, and 11.</p>   |   |
| 79. | Ms. Polina L. Ross<br>Attorney<br>Los Angeles, Cali                               | A        | N                           | No specific comment.   | No response required.   |
| 80. | Hon. James Ruggiero<br>Judge<br>Superior Court of California,<br>County of Shasta | AM       | N                           | <p><u>Rule 212(a) through (c):</u><br/>The amendments appear to seek to accomplish several things. They seek to cut down on unnecessary attorney appearances and to make those hearings they do appear at effective. The problem is the proposed amendments put the burden on the court. Counsel may already submit a joint case management statement, but seldom do. Most repeat appearances for case management or status conferences are a result of attorneys not accomplishing what the rules require in the times provided. Placing the onus on overburdened courts to spend chambers time trying to relieve the attorney's from having to appear or do the work necessary to avoid appearance seems to me to be a poor use of judicial resources.</p> | The committee considered the comments. Under the Trial Delay Reduction Act, the courts have the responsibility for managing cases; however, attorneys need to comply with the statutes and rule implementing trial delay reduction. |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>  |
|-----|--|-----------------|------------------------------------|--|--|
|     |  |                 |                                    | <u>Rule 212(j):</u><br>I suppose these amendments benefit counsel when appearing before judges who would not otherwise consider the various circumstances listed. However, a review of the factors and the catchall provision in (25) seems to seriously undermine the judicial policy against continuances.   | Rule 212(j) provides criteria to be considered in setting cases for trial. The rule on continuances continues to state clearly at the outset that trial dates are firm. (See amended rule 375(a).) The amended rule is intended to preserve this policy, while providing more guidance and flexibility in implementing the policy. |
| 81. | Greg J. Ryan<br>Attorney<br>Los Angeles, California              | A               | N                                  | Agreed without specific comment.   | No response required.  |
| 82. | Mr. Leonard Sacks<br>Attorney at Law<br>Port Hueneme, California | AM              | N                                  | Shouldn't Rule 212(j) give specific protection for cases subject to dismissal for failure to bring them to trial within five years.  | The committee did not regard it as necessary to specifically add such a consideration in the rule. Under proper case management, the problem of cases approaching the 5-year statute should have been virtually eliminated. If it is still an issue in a case, it can be considered under rule 212(e)(20) (other matters).         |
| 83. | Steven Sadd<br>Attorney<br>Los Angeles, California               | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09).<br><br>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of | The committee noted the commentator's support for the proposal.  |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|--|---|
|     |   |                 |                                    | <p>continuances.</p> <p>Rigid adherence to deadline and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Tract guidelines is meritorious' however the strategic addition of a degree of flexibility as reflected in the proposed rule changes better ensure fair and efficient case management in California.</p> <p>For this reason I am leased to support the proposed changes to the Rules of Court (SP03-09).</p> |   |
| 84. | Mr. Steven L. Saldo<br>Attorney<br>Law Offices of Steven L. Saldo<br>San Luis Obispo County | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in</p>  | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
|     |   |                 |                                    | <p>great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p>  |   |
| 85. | Mr. Robert E. Savitt<br>Attorney<br>Los Angeles, California                   | A               | N                                  | Should be adopted.  | The committee noted the commentator's support for the proposal. |
| 86. | Mr. Jack Schaedel<br>Universal City, California                               | A               | N                                  | No specific comment.  | No response required.   |
| 87. | Barry R. Schirm<br>Grace, Genson, Cosgove & Schirm<br>Los Angeles, California | -               | N                                  | My firm handles many product liability cases for several of the major auto manufacturers. Under the present fast track rules, a product liability case is treated, by many judges, in the same manner as an auto vs. auto "who ran the red light" case. However, product liability cases are invariably more complex, require more time to prepare and should not be placed in the same category as more simple, routine cases. Further, many of the technical aspects of a product liability matter provide a solid basis for ultimately moving for summary judgment. However, the fast track rules now conflict with the recent changes in the MSJ statute, which requires 2 ½ time as much notice as before. That additional time often makes it | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
|     |   |                 |                                    | <p>impossible to submit an MSJ based solely on insufficient time.</p> <p>Thank you for your consideration.</p>  |   |
| 88. | Mr. Robert S. Schlifkin<br>Law Offices of Robert S. Schlifkin<br>Los Angeles County | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p> | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|--|---|
| 89. | Mr. Karl W. Schoth<br>Attorney, ABOTA member<br>Law Offices of Schoth,<br>Creyaufmiller & Associates<br>Glendora, California | A               | N                                  | <p>I support the proposed changes. There really is a need to allow for more flexibility in the deadlines and in the granting of continuances, particularly for scheduling multiple expert witnesses.</p> <p>I have been practicing law for 19 years and tried many cases to verdict. Greater flexibility for trial scheduling will work to the benefit of all involved. I ask the Judicial Council to adopt and implement the proposed changes to SP03-09 as soon as possible.</p>   | The committee noted the commentator's support for the proposal. |
| 90. | Mr. Douglas A. Sears<br>Matheny, Sears, Linkert &<br>Long<br>Sacramento, California  | A               | N                                  | <p>The backlog of cases and constant flirtation with the five-year statute of limitations before cases proceeded to trial are relics of the past. With the successful advent of Alternative Dispute Resolution programs throughout the state, the number of lawsuits that actually get tried has been drastically reduced. The proposed changes will enhance the "quality of life" of litigators by allowing greater flexibility with scheduling of pretrial and trial deadlines so that conflicts in trial schedules and vacations can actually be taken into consideration when trial dates are assigned.</p> <p>When the litigators who actually try jury trials are agreeable to continuation of a trial date by stipulation, their wishes should be honored, rather than some judge's rigid reliance on "fast track" statistical deadlines.</p> | The committee noted the commentator's support for the proposal. |
| 91. | Mr. Michael V. Severo<br>Law Offices of Michael V.   | A               | N                                  | Please accept this letter as our firm's expression of support for the proposed changes to the Rules of   | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | <b>Commentator</b>           | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b> |
|--|------------------------------|-----------------|------------------------------------|--|---------------------------|
|  | Severo<br>Los Angeles County |                 |                                    | <p>Court, Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11).</p> <p>Unquestionably, Fast Track case management has been successful in preventing unnecessary trial delays and has thus resulted in the efficient administration of our courts. However, in ensuring that effective administration of the system does not conflict with the parties' rights to a fair trial and the full presentation of all relevant evidence on all issues, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>An arbitrary adherence to deadlines and the refusal to grant continuances can in many instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts, and the complexities of the case (such as the nature and the extent plaintiff's injuries might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management, as well as fair trials for all participants.</p> <p>For those reasons I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11.)</p> |                           |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|---|---|
| 92. | Ms. Sarah Shena<br>Bourdette & Partners<br>Visalia, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | The committee noted the commentator's support for the proposal. |
| 93. | Mr. Andrew C. Sigal<br>Law Offices of Andrew C. Sigal          | A               | N                                  | As a sole practitioner, I have been run ragged by the Fast Track Rules, currently in place. While I understand the need for Fast Track and in general,  | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
|     | Van Nuys, California  |                 |                                    | <p>support it, I feel that judges have been glued to the current rules and reluctant to deviate from them, regardless of the reason.</p> <p>The proposed rules, in my opinion, will allow the trial courts greater flexibility in responding to the needs of attorneys like me who are sole practitioners.</p> <p>It is my hope you will adopt the proposed rules.</p>  |   |
| 94. | Mr. William H. Staples<br>Archer Norris<br>Walnut Creek, CA                 | A               | N                                  | These type of changes are long overdue to allow appropriate time to prepare a case for trial.   | The committee noted the commentator's support for the proposal. |
| 95. | Mr. Daniel A. Stenson<br>Law Offices of John E. Hill<br>Oakland, California | A               | N                                  | <p>I am pleased to support the proposed changes to Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track</p> | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>  |
|-----|--|-----------------|------------------------------------|---|--|
|     |  |                 |                                    | <p>guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p>   |  |
| 96. | Mr. Thomas G. Stolpman<br>President<br>Los Angeles Chapter of the<br>American Board of Trial<br>Advocates (ABOTA)<br>Los Angeles, California | A               | Y                                  | <p>I am commenting on behalf of the members of the Los Angeles Chapter of the American Board of Trial Advocates (ABOTA). . . . These proposals move toward that recognition as we progress through our second decade of “Fast Track” case management. Personally, and on behalf of the Los Angeles Chapter of ABOTA, I applaud the work of the Blue Ribbon Commission proposals which recognize some of the most significant flaws in our current rules and address them in a balanced way which will better promote the administration of justice, while encouraging more civility between the bench and lawyers who appear on behalf of clients in our civil courts.</p> <p>We thank Chief Justice George, the members of the Judicial Council, and the staff, as well as the members of the Blue Ribbon Commission, for taking a serious look at the problems addressed by these proposals. We express our hope that the council will implement the changes as proposed.</p> | The committee noted the support of the Los Angeles Chapter of ABOTA for the proposals. |
| 97. | Mr. Daniel J. Sullivan<br>Attorney<br>Law Offices of Daniel J.   | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and   | The committee noted the commentator's support for the proposal.                        |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
|     | Sullivan<br>Sacramento County   |                 |                                    | <p>Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p> |   |
| 98. | Mr. Don C. Sutton<br>Law Office of Don C. Sutton<br>Modesto, California | A               | N                                  | <p>I am in support the proposed change to the Rules of Court applying to Trial setting and Civil Case Management (SP03-09).</p> <p>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in</p>  | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|      | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|------|---|-----------------|------------------------------------|---|---|
|      |   |                 |                                    | <p>the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-09).</p> |   |
| 99.  | Ms. Vivienne A. Swanigan<br>Deputy City Attorney<br>Los Angeles City Attorney's Office<br>Los Angeles, California | A               | N                                  | No specific comments on SP03-09.  | No response required.   |
| 100. | Mr. Vibhu Talwar<br>Agnew & Brusavich<br>Torrance, California   | A               | N                                  | I wholeheartedly support the proposed changes on Fast Track guidelines and continuances (Items Nos. SP03-09, SP03-10, SP03-11). Decisions to grant trial continuances MUST take into account the infinite factors that are beyond our control and often arise unexpectedly. Hence, the "Standards" must be fair, practical, and flexible.   | The committee noted the commentator's support for the proposal. |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|      | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>  |
|------|--|-----------------|------------------------------------|--|--|
| 101. | Mr. Robert M. Tessier<br>Calebassus, California                    | A               | N                                  | No specific comment.   | No response required.  |
| 102. | Ms. Nikke Tolt<br>Beverly Hills, California                        | A               | N                                  | <p>I have recently reviewed the proposed changes to the Rules of Court applying to trial court and civil case management (SP03-09), motions and applications for continuance of trial (SP03-10), and trial delay reduction and case disposition time standards (SP03-11). The changes are clearly an adjunct to the Fast Track Case Management Rules , which, although having made an important contribution to the efficiency of our courts and the prevention of unnecessary trial delays, has also, in certain instances, caused undue hardships to certain litigants due to the lack of flexibility in the application of the deadlines and in granting of continuances.</p> <p>As a solo practitioner, the proposed changes are particularly welcome, as conflicts often arise during the course of a practice that is focused on trial work. It is important for the trial judges to understand that they have latitude in administering Fast Track guidelines so that individual circumstances may be taken into consideration for the best interests of the litigants. Although the overall purpose of Fast Track guidelines is meritorious, the changes are welcomed, and we appreciate your efforts in this regard. For this reason, I am pleased to support the proposed changes to the Rules of Court, as indicated above.</p> | The committee noted the commentator's support for the proposal.                      |
| 103. | Hon. Gary Tranbarger<br>Judge of the Superior Court of California, |                 |                                    | <p><u>Proposed rule 212(c)(2):</u><br/>It is insulting to suggest that a Rule of Court is needed to prevent judges from mandating appearances at</p>   | The committee has modified the language of rule 212. There is a concern that parties |

SP03-09

Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)

|      | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|------|---|----------|-----------------------------|---|---|
|      | County of Riverside   |          |                             | <p>“unnecessary” hearings. (A) There are no judges in California currently holding hearing that they believe are unnecessary; and (B) if there any such judges, a new Rule of Court is not going to change their behavior.</p> <p><u>Proposed rule 212(j):</u><br/>           Since the 25 listed factors are non-exclusive; since there is no guidance given as to how to weigh or prioritize the factors; and since multiple listed factors will be present in every case; this rule is, essentially, meaningless. If I were confronted with attorneys arguing over setting a trial date, there is nothing in this rule that will help me make a decision.</p>                                      | <p>and attorneys are sometimes being required to appear at conferences when this is not needed for the efficient management of the case, as stated in the Blue Ribbon Panel's report. The committee's revised language for rule 212(c) takes this concern into account.</p> <p>The committee disagreed. It regards the list of criteria to be useful to courts and litigants in determining when to set a case for trial.</p> |
| 104. | Trial Court Presiding Judges and Court Executives Advisory Committees<br>Judicial Council of California | AM       | Y                           | <p>The Trial Court Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) support the proposal subject to the following modifications:</p> <p>Amend subsection (c)(2) [<b>Additional case management conferences</b>] to read as follows:</p> <p>(2) <i>(No unnecessary conferences)</i> Parties <del>must not</del> <u>should only</u> be required to appear at conferences <u>when the judge deems it necessary.</u> <del>Unnecessarily.</del> In most cases, one case management conference and one pretrial conference will be sufficient. But in <u>other cases, including</u> complicated or difficult cases, the court may order additional case management</p> | <p>The committee has modified rule 212(c ). It has found the suggestions of the other advisory committees to be helpful, and has taken them into account in developing the final version recommended on the report.</p> <p>Portions of this proposed rule have been moved into an Advisory Committee Comment.</p>   |

**SP03-09**

**Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|      | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|------|--|-----------------|------------------------------------|--|---|
|      |  |                 |                                    | conferences if that would promote the fair and efficient resolution of the cases. In determining whether to hold conferences, the court must consider each case individually on its own merits.  |   |
| 105. | Mr. Peter A. Viri<br>Stockton, California  | A               | N                                  | No specific comment.   | No response required.   |
| 106. | Robert C. Von Bargaen<br>Ryan, Datomi & Flores<br>Glendale, California                             | A               | N                                  | Agree without specific comment.  | No response required.   |
| 107. | Mr. Todd Walburg<br>Bennett, Johnson & Galler<br>Oakland, California                               | A               | N                                  | No specific comment.   | No response required.   |
| 108. | Mr. Randy Wertz<br>Attorney<br>Dryden, Margles,<br>Schimaneck & Wertz<br>San Francisco, California | A               | N                                  | It has become increasingly difficult to prepare the defense of our clients due to the number of files we handle and the deadlines set by the fast track rules. Plaintiff's attorneys delay filing their complaints until they have conducted needed investigation and defendants are at a substantial disadvantage, especially when arbitration are set very soon after answers are filed.                     | The committee noted the comment.                                |
| 109. | Mr. Jon R. Williams<br>Ross, Dixon & Bell, LLP<br>San Diego, California                            | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09).<br><br>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|      | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|------|---|-----------------|------------------------------------|---|---|
|      |   |                 |                                    | <p>continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. In short, trial court discretion should not be compromised for the sake of experience not should justice be thwarted for the mere "processing" of cases.</p> <p>I welcome this change and support your efforts to strike a better balance in our civil justice system.</p> |   |
| 110. | Mr. Richard D. Williams<br>Assistant Chief Counsel<br>California Department of<br>Transportation<br>Sacramento County | A               | N                                  | This proposal provides much more latitude for the trial court to consider an appropriate trial date and provides much more guidance to the court regarding the factors it should consider. Adoption of this proposal should provide for more equitable setting of trial dates.  | The committee noted the commentator's support for the proposal. |
| 111. | Ms. Michelle Williams-Court<br>Bet Tzedek Legal Services<br>Los Angeles, California                                   | A               |                                    | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09).</p> <p>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in</p>   | The committee noted the commentator's support for the proposal. |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|      | <b>Commentator</b>                         | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>  |
|------|--|-----------------|------------------------------------|--|--|
|      |  |                 |                                    | <p>the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP03-09).</p> |  |
| 112. | Mr. David L. Winter<br>Moore, Winter et al | A               | N                                  | <p>This is a substantial step in balancing calendar control and due process. Although not directly addressed, the delay in adding defendants to a case (e.g., where plaintiff fails to serve in a timely manner, but the case moves forward anyway) creates problems for the defendants in responding to the court's needs and still preparing an adequate defense. Some consideration must be given to the burden placed on defendants to play "catch-up" before a case proceeds to trial.</p>  | <p>The committee noted the commentator's support for the proposal.</p> <p>The committee will be looking at issues not raised by the Blue Ribbon Panel in its comprehensive review of the case management rules in 2003–2004.</p> |
| 113. | Daniel Wolfberg<br>Los Angeles, California | A               | N                                  | <p>It seems that in some courtrooms the fast-track rules actually increase the cost of litigation as the parties</p>   | <p>The committee noted the comments.</p>   |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|      | <b>Commentator</b> | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>             |
|------|--------------------|-----------------|------------------------------------|---|---------------------------------------|
|      |                    |                 |                                    | <p>are forced to settle with concern only for litigation speed (an obvious oxymoron).</p> <p>Some parties are forced to go to law and motion when unable to quickly work out disputes. Expensive discovery referees are ordered.</p> <p>The allowance or disallowance of trial continuances is totally haphazard in application.</p> <p>Lengthened notice rules for the summary judgment statute flies in the face of the one-year rule and may eliminate the efficient elimination of unmeritorious cases, which actually causes the need for more trials and stresses the jury pool resources thin, conflicting with the one day, one trial juror rule or budgetary constraints regarding staffing from Judges down to attendants (more litigation, more staff).</p> <p>A rare judge is concerned with clearing his/her calendar over all other aspects of the matter, which causes disastrous scheduling for all sides (witnesses, litigants, litigators, experts, etc....)</p> <p>All involved in the civil litigation process are entitled to their day in Court as soon as in reasonably possible. Some cases can and should be completed in as little as 8 months, some 2 and a half years, some as long as 5 years....</p> <p>Thanks.</p> |                                       |
| 114. | Mr. Steven Zwick   | A               | N                                  | I am pleased to support the proposed changes to the   | The committee noted the commentator's |

**SP03-09****Trial Setting and Civil Case Management (amend Cal. Rules of Court, rule 212)**

|  | <b>Commentator</b>                                      | <b>Position</b> | <b>Comment<br/>on behalf<br/>of group?</b> | <b>Comment</b> | <b>Committee Response</b> |
|--|---|-----------------|--|----------------|---------------------------|
|  | Law Office of Steven Zwick<br>Mission Viejo, California |                 |  |                |                           |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|    | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response  |
|----|--|----------|-----------------------------|--|---|
| 1. | Mr. John C. Adams III, J.D.<br>Hunt & Adams<br>Santa Ana, California | A        | N                           | <p>I am pleased to sending this letter in support of the proposed changes to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-10). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>As discussed as a recent Bench and Bar meeting initiated by the Presiding Judge of the Orange County Superior Court (Hon. Frederick Horn), such flexibility may also relieve some of the time and expense burdens on civil trial panels during this time of reduced court budgets.</p> | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|    | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|----|---|----------|-----------------------------|---|---|
|    |   |          |                             | For this reasons, I am wanted to communicate my support for the proposed changes to the Rules of Court (SP03-10).   |   |
| 2. | Mr. James Alquist<br>Law Offices of Steven Zwick<br>Mission Viejo, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and</p> | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|    | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|----|--|----------|-----------------------------|---|---|
|    |  |          |                             | SP03-11).   |   |
| 3. | Mr. Steven D. Archer<br>Robins, Kaplan, Miller &<br>Ciresi LLP<br>Los Angeles County | A        | Y                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|    | Commentator  | Position | Comment on behalf of group?  | Comment   | Committee Response  |
|----|--|----------|--|---|---|
| 4. | Ms. Laurie E. Barber<br>Chair<br>Complex Litigation<br>Committee of the Litigation<br>Section of the California State<br>Bar<br>San Diego County | AM       | Y<br><br><i>*opinion<br/>of the<br/>committee<br/>and not of<br/>the entire<br/>California<br/>State Bar</i> | <p>The Complex Litigation Committee of the State Bar's Litigation Section ("Complex Committee") agrees with proposed changes to rule 375 sections (a), (b), and (c).</p> <p>The Complex Committee suggests [in section (d)(1)] the word “essential” be deleted. The court already has complete discretion to determine whether good cause exists for a continuance. It is assumed the court will grant a continuance for essential witnesses but deny for non-essential witnesses. The committee agrees with the remaining proposed changes to this section (d).</p> <p>The Complex Committee agrees with this proposed rule change [to section (e)] but wants to add an additional factor: <i>(12) whether the parties are engaged in serious settlement discussions that would render a trial unnecessary.</i></p> <p>The Complex Committee suggests this section [section (f)] track the language in CCP section 1024 as follows: “When a motion or application is made to the court to continue a trial, the payment of expense occasioned by the continuance may be imposed, in the discretion of the court, as a condition of granting the same.”</p> <p>The Complex Committee agrees with the proposed</p> | <p>The committee left the word in paragraph (1).</p> <p>The committee strongly disagreed with this proposal to add settlement discussions as a separate factor. In an appropriate situation, the party's engagement in serious settlement discussion might be considered under subdivision (j)(25).</p> <p>Instead of tracking the statutory language, the committee would delete this subdivision as unnecessary.</p> <p>The committee noted the Complex</p> |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
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|    | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|----|---|----------|-----------------------------|---|---|
|    |   |          |                             | changes to rule 375.1 – Motion or application to advance, specifically set or reset trial date.   | Committee's support for rule 375.1.                             |
| 5. | Mr. Sean Barry<br>Managing Attorney<br>California State Automobile Assn.          | A        | N                           | I have been handling civil litigation for 25 years. The fast track rules made a great difference, and we need to continue the scheme. However, rigid adherence to the rules in unfairness, needless expense, and injustice at times. This proposal is a good effort at incorporating more flexibility into the fast track system. I whole-heartedly support it.   | The committee noted the commentator's support for the proposal. |
| 6. | Mr. David H. Bent<br>Attorney<br>California State Auto Assn.<br>Inter-Ins. Bureau | A        | N                           | I believe the proposed changes will promote more efficient application, as well as better "centralization," of the standards and procedures for requests for continuances.  | The committee noted the commentator's support for the proposal. |
| 7. | S. Colin Brown<br>Santa Cruz, California  | A        | N                           | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.<br><br>Rigid adherence to deadlines and the refusal to grant a | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|    | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|----|---|----------|-----------------------------|--|---|
|    |   |          |                             | <p>continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p>  |   |
| 8. | Bruce Brusavich, President<br>Consumer Attorneys of<br>California | A        | Y                           | <p>The Consumer Attorneys of California (CAOC) is pleased to support the proposed changes to the Rules of Court that apply to Fast Track Guidelines and Continuances (Item No. SP03-09; SP03-10; SP03-11.) CAOC credits the Blue Ribbon Panel with making important efforts to ensure that Fast Track guidelines and the grant of continuances will be administered with a heightened degree of informed flexibility. While Fast Track case management in California currently makes an important contribution to the efficient administration of our courts and works to prevent unnecessary trial delays, Consumer Attorneys believes that the proposed rule changes make it clear that courts have the option to consider credible, real world factors in administering the</p> | The committee noted the Consumer Attorneys of California's support for the proposals. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|  | Commentator | Position | Comment on behalf of group? | Comment   | Committee Response  |
|--|-------------|----------|-----------------------------|---|---|
|  |             |          |                             | <p>guidelines instead of being lock into a rigid adherence to statistical thresholds.</p> <p>Personally, I often attend state bar functions where I hear elder trial lawyers talk about practicing law at a time when being a trial lawyer was a noble and civil profession. They recount that trial judges actually liked and respected trial lawyers and treated them courteously. The lawyers, on their part, treated the judges with the same courtesy and respect. Practicing law was serious business, but the business of living was also respected. Trial conflicts, vacations, weddings, illnesses, the death of family members or friend's funerals were events that both the bench and the bar could accommodate while still achieving an efficient disposition of the case load. The proposed rule changes make a significant effort to guarantee that civility and respect will always have a place in case management in California. . . .</p> <p>The proposed amendments to Cal Rule of Court 375 Motions and Applications for Continuance of Trial inject a helpful degree of flexibility into the consideration of the granting of a continuance. Specific provisions are noteworthy. The proposed rule allows a request for continuance to be made by ex parte application as well as by noticed motion and expressly that the court should consider the proximity to the trial date; any prior history of request for continuances, and the potential prejudice to the other</p> | <p>The committee noted the Consumer Attorneys of California's support for this specific proposal.</p> |

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**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

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|----|--|----------|-----------------------------|--|---|
|    |  |          |                             | <p>parties and witnesses, all of which add a practical degree of flexibility. . . .</p> <p>For the above reason the Consumer Attorneys of California are pleased to support the proposed rule changes on Fast Track guidelines and continuances (Item Nos. SP03-09; SP03-10; &amp; SP03-11.) If you or a member of your staff would like to discuss this further, please contact me, or one of our legislative advocates in Sacramento.</p>  |   |
| 9. | Mr. Sean M. Burke<br>Law Offices of Sean M. Burke<br>Newport Beach, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track</p> | The committee noted the commentator's support for the proposal. |

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**Motions and Applications for Continuance of Trial**  
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|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|--|----------|-----------------------------|--|---|
|     |  |          |                             | <p>guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p>  |   |
| 10. | Michael A. Byrne<br>Partner<br>McKay, Byrne & Graham               | A        | N                           | <p>I have been a trial lawyer for almost 35 years, and while I am in complete agreement with the reasons fast track was adopted, it has become clear that more flexibility is needed to allow for individual differences in cases, as rigid adherence to rules can sometimes result in irreparable harm to parties through no fault of their own. Some cases simply do not fit within the fast track parameters and consideration needs to be given to them.</p>   | The committee noted the commentator's support for the proposal. |
| 11. | Mr. Richard P. Caputo<br>Attorney/Mediator<br>San Jose, California |          |                             | <p>I am pleased to support the proposed changes to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-10). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice</p> | The committee noted the commentator's support for the proposal. |

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|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | <p>to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-10).</p> |   |
| 12. | Mr. Donn W. Christensen<br>Christensen Law Office<br>Arcadia, California  | A        | N                           | While the proposed changes in SP03-09 and SP03-10 are both welcome and necessary changes, no proposal is more welcome or necessary than the proposed new CRC 204 and the amendments to CRCs 208 and 209 found in SP03-11. . . .   | The committee noted the commentator's support for this rule proposal. |
| 13. | Mr. Raymond Coates<br>President, California Defense Counsel<br>c/o Low Ball & Lynch<br>Redwood City, California | A        | –                           | I am an attorney practicing civil litigation in California for the past 35 years. I am former President of the Association of Defense Counsel of Northern California and am currently President of the California Defense Counsel. I am writing to support the proposed changes to the Trial Setting and Case Management, Motions and Applications for Continuances of Trial, and Trial Delay Reduction Rules.  | The committee noted the commentator's support for the proposal.       |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

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|--|-------------|----------|-----------------------------|--|--------------------|
|  |             |          |                             | <p>My practice is primarily in the San Francisco Bay Area Court. Having practiced under procedures prior to the Trial Delay Reduction Rules and after the Trial Delay Reduction Rules leads me to support the proposed changes. While no one supports a return to the years prior to the adoption of these rules, under current practices, some judges view all cases the same and insist upon a setting for trial within one year of filing no matter what the circumstances of each particular case. Some judges do not care that a defendant is not served or brought into a case until six months after filing, that there are complicated law and motion hearings that need to be completed before setting for trial, that there is extensive discovery to be conducted, or that the interests of justice and the rights of the individual litigants do not warrant a trial within one year. Some courts refuse continuances even though circumstances warrant it. This has led to situations such as my current situation where I am set for ten trials between now and the end of the year and am double set on several dates despite protests.</p> <p>The proposed changes appear to be to introduce a factor other than time in the setting of cases for trial. The new rules make an effort to consider their individual case, the interests of the litigants, and the demands upon the attorneys in disposing of cases. I thus believe that they are a vast improvement over the current situation.</p> |                    |

**SP03-10**  
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|-----|--|----------|--|--|--------------------|
|     |  |          |  | It is sometimes forgotten that the courts are in a "service industry." They exist to serve the dispensing of justice to litigants before them. This means that while it is important for cases to be moved along, it is more important that justice is fairly and equitably dispensed. These proposed rules go a long way in moving the courts in that direction. I heartily support them.   |                    |
| 14. | Committee on the Administration of Justice<br>The State Bar of California<br>San Francisco, California | AM       | Y<br><br>* on behalf of State Bar's committee on Admin. of Justice | <p>The State Bar of California's Committee on Administration of Justice ("CAJ") has reviewed and analyzed the proposals of the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases (the "Blue Ribbon Panel") relating to trial setting, continuances, and case management.* CAJ commends the Blue Ribbon Panel for its excellent work on these proposals, and appreciates the opportunity to submit these comments. In general, CAJ supports the proposed changes as significant improvements to the effective administration of civil litigation. CAJ does, however, have the following comments.</p> <p><b>Motions and Applications for Continuance of Trial – SP03-10</b></p> <p>CAJ supports the proposed amendments,</p> |                    |

\* By way of background, CAJ is a committee of attorneys from diverse practice areas, with expertise in civil procedure, court rules and administration, rules of evidence, and other matters having an impact on the administration of justice in civil cases.

**SP03-10**  
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|  | Commentator | Position | Comment on behalf of group? | Comment   | Committee Response  |
|--|-------------|----------|-----------------------------|---|---|
|  |             |          |                             | <p>subject to the following comments:</p> <p>1. The rules should specifically permit the parties to stipulate to continue a trial date for some reasonable period of time after the initial date set for trial, rather than identifying stipulation to a continuance as simply a factor to be considered, as in proposed rule 375(e)(9). The maximum period of time could be set by the rules. CAJ believes that a stipulated continuance for a reasonable period of time could be accomplished without having a negative impact on judicial resources or the administration of justice, and, in many cases, would be beneficial to the ultimate resolution of the case.</p> <p>2. CAJ believes the distinction between the matters identified in proposed rule 375(d) and proposed rule 375(e) should be eliminated when considering grounds for a continuance. Proposed rule 375(d) is entitled “Grounds for continuance.” It specifically refers to “good cause” and identifies certain circumstances that may indicate good cause. Proposed rule 375(e) is entitled “Other factors to be considered.” It states that the court, in ruling on a motion or application for continuance, “must consider all the facts and circumstances that are relevant to the determination” and identifies certain facts and circumstances that might be included when making that determination. The distinction between the circumstances identified in proposed subdivision (d)</p> | <p>The committee disagreed. Amended rule 375(e) appropriately includes whether the parties have stipulated to a continuance to be a factor for the court to consider in determining whether to grant a continuance.</p> <p>The committee disagreed. Subdivisions (d) and (e) appropriately distinguish between facts that may constitute "good cause" for a continuance and other factors to be considered.</p> |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
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|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | and proposed subdivision (e) is not clear. By dividing the circumstances into two different subdivisions of the rule, there is some suggestion that the two sets of circumstances are held to different standards, which might result in confusion. CAJ believes the proposed rules should be modified to include, in a single rule, a list of some of the factors the court might consider when ruling on a motion or application for a continuance.   |   |
| 15. | Ms. Dawn Cushman<br>Ryan, Datomi & Flores<br>Glendale, California                  | A        | N                           | I wholeheartedly agree with the proposed changes. It appears as though the changes reflect the reality of practice in the legal community. Continuances of trial are often needed even where there is no emergency, as required by the prior rules. As important as the trial court's calendar and statistics may be, principles of fundamental fairness demand due consideration of the interest of the parties and their counsel. Moreover, from a defense counsel's perspective, the new 75-day notice requirement for summary judgment motions has placed an extreme burden on defendants that can be alleviated to a degree by some modicum of recognition for the circumstances presented to counsel daily. | The committee noted the commentator's support for the proposal. |
| 16. | Mr. Carl E. Douglas<br>Law Offices of Carl E. Douglas<br>Beverly Hills, California | A        | N                           | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time  | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response   |
|-----|--|----------|-----------------------------|--|--|
|     |  |          |                             | <p>Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> |  |
| 17. | Mr. Joel Douglas<br>Bonne, Bridges, Mueller,<br>O'Keefe & Nichols<br>Los Angeles, California | AM       | N                           | Good idea. However, would add as a ground, which the court "may" consider under (d): "(7) Assigned trial counsel's engagement in trial in another court," with the attending circumstances and practicable options included in (e) for consideration.  | The ground is already covered by rule 375(e)(8) ("whether trial counsel is engaged in another trial"). |
| 18. | Mr. Steven R. English<br>Chair   | A        | Y                           | This letter is written on behalf of the Litigation Section of the Los Angeles County Bar Association.  | The committee noted the support of the Litigation Section of the Los Angeles                           |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
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|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     | Litigation Section of the California State Bar<br>Los Angeles County |          |                             | <p>As you may know, the Litigation Section is comprised of nearly 3,000 lawyers whose practices are located in Los Angeles and the surrounding counties. We have reviewed and distributed for comment to our membership the proposed changes to various California Rules of Court and Standard 9 of the Standards of Judicial Administration.</p> <p>Please be advised that the Litigation Section supports the changes proposed by the Blue Ribbon Panel on the Fair and Efficient Administration of Civil Cases and urges the passage of those changes. Further, we are informed that the Los Angeles County Bar Association (“LACBA”) is also supporting the proposed changes and has further suggested certain modifications to the proposed changes. We have reviewed LACBA’s suggested modifications and concur in the suggested modifications.</p> | County Bar Association for the proposal.                        |
| 19. | Mr. Todd Gall<br>Young & Nichols<br>Bakersfield, California          | A        | N                           | <p>I am pleased to support the proposed change to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-10).</p> <p>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p>  | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response   |
|-----|---|----------|-----------------------------|--|--|
| 20. | Mr. Robert Gerard, President<br>Orange County Bar Association<br>Irvine, California | AM       | –                           | Paragraph (f), line 3, after “pay the” insert “non-refundable, out-of-pocket”, line 4, after “postponement” add “, but not to include attorneys’ fees.”  | The committee has eliminated (f) entirely because it would duplicate the applicable statute. (See Govt. Code, § 1024.) |
| 21. | Mr. Steven P. Goldberg<br>Goldberg & Gille<br>Woodland Hills, California            | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-10). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels’ calendar conflicts or the fact that the nature and the extent plaintiff’s injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP03-10).</p> | The committee noted the commentator’s support for the proposal.  |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
| 22. | Mr. Ned Good<br>Good, West & Schuetze<br>Pasadena, California | A        | N                           | <p>I am pleased to support the proposed changes to Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | The committee noted the commentator's support for the proposal. |
| 23. | Dean B. Gordon  | A        |                             | I support the proposed changes to the Rules of Court   | The committee noted the commentator's                           |

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|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|--|----------|-----------------------------|--|---|
|     | Attorney<br>Law Offices of Dean B. Gordon                                      |          |                             | <p>applying to Motions and Applications for Continuance of Trial (SP03-10). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-10).</p> | support for the proposal.                                       |
| 24. | Mr. Dale S. Gribow<br>Law Offices of Dale S. Gribow<br>Palm Desert, California |          |                             | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-10). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a</p>  | The committee noted the commentator's support for the proposal. |

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|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response |
|-----|--|----------|-----------------------------|--|--------------------|
|     |  |          |                             | <p>need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-10).</p> |                    |
| 25. | Trial Court Presiding Judges and Court Executives Advisory Committee, Judicial Council of California | A        | Y                           | <p>Rule 375(a) that concerns continuance of trial dates would be combined with section 9 of the Standards of Judicial Administration that provides guidelines for granting continuances. Current rule 375(b) concerning motions to advance, specially set, or reset trial dates would be moved to a new rule 375.1.</p> <p>The Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) support the proposal</p>  |                    |

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|-----|--|----------|-----------------------------|--|--|
|     |  |          |                             | <p>subject to the following modification:</p> <p>Amend subsection (d)(2) <b>[Grounds for continuance]</b> to read as follows:</p> <p style="padding-left: 40px;">(4) The substitution, <u>if timely</u>, of counsel, but only where there is an affirmative showing that the substitution is required in the interests of justice.</p>   | <p>Subdivision (b) already requires the party to "make the motion or application as soon as reasonably practical once the necessity for the continuance is discovered." Hence, the committee did not add the additional phrase in paragraph (4).</p> |
| 26. | Mr. John E. Hill<br>Law Offices of John E. Hill<br>Oakland, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-10). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case</p> | <p>The committee noted the commentator's support for the proposal.</p>   |

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|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | management in California.<br><br>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP03-10).   |   |
| 27. | Mr. Robert W. Hodges<br>Attorney<br>McNamara Law Firm                        | A        | N                           | I agree with all proposed changes and ask that the council approve them.  | The committee noted the commentator's support for the proposal. |
| 28. | Mr. Gabriel A. Jackson<br>Jackson & Wallace LLP<br>San Francisco, California | AM       | N                           | Our firm is heavily involved in civil litigation in California, representing over 100 defendants in mostly product liability litigation. We have read with great interest the Blue Ribbon Panel's findings and proposed modifications to the rules involving trial setting (No. SP03-09), motions for continuance (No. SP03-10), the Trial Delay Reduction Act (No. SP03-11), and ethics training (No. SP03-12). As the Council requested comments on the suggested proposals, we write to advise you that our office and our clients are very much in support of all of the proposals. In addition, it is our belief that the proposed rule changes should apply to <i>all</i> civil litigation, including complex litigation, whether it be construction defect, mass torts, or toxic tort cases such as mold, tobacco, and asbestos. Perhaps the rules could be amended so that it is clear that <i>all</i> civil litigation would be covered by these changes.<br><br>We thank you for your time and consideration of our comments. | The committee noted the commentator's support for the proposal. |

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|-----|---|----------|-----------------------------|--|---|
| 29. | Mr. Christopher A. Kall<br>Attorney<br>Agnew & Brusavich<br>Torrance, California                    | A        | N                           | The criteria provided in these amendments will be very helpful to both the court and attorneys in determining the appropriateness and timing of requests for trial continuances.   | The committee noted the commentator's support for the proposal.   |
| 30. | Hon. Stephen B.R. Keller<br>Temporary Judge<br>Superior Court of California,<br>County of El Dorado | AM       | N                           | <p>In our recent comments on the proposed changes to CRC 212(j), which lists 25 categories to be considered in setting trial dates, we suggested the rule could be strengthened by stating the policies which guide the court. We suggest a similar change with regard to continuing trial dates.</p> <p>The policies, as we see them, are as follows: First, as the proposed rule recognizes the dates assigned for trial should be firm. This is because all other case planning, including when motions are heard, when discovery is concluded, when dispute resolution is conducted, when trial preparation is completed, etc., is set by counting back from the trial date.</p> <p>Second, when a trial has been set, it should be continued only by a fundamental change in the case. But, not every fundamental change will justify a continuance. It must be one, which could not have been reasonably anticipated by the parties. The reason for this is that in the initial trial setting, we want the parties to anticipate their needs and advise the court.</p> | <p>The policy that trial dates are firm is stated in rule 375(a).</p> <p>The committee disagreed that the grounds listed in rule 375(d) should be changed. This subdivision provides a "good cause" standard for granting continuances.</p> |

<sup>1</sup> The proposed rule comes close to stating the operative policies in subparagraph (7). But, why not put the policies at the start of the rule and why not state them correctly. For, it is only a change which could not reasonably have been anticipated which justifies a continuance. And, while we applaud the reference to preparation, the policy is broader than that. It concerns the ability of the court to render substantial justice among the parties.

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|--|-------------|----------|-----------------------------|--|---|
|  |             |          |                             | <p>But, not every fundament change, which could not have been anticipated, will justify a continuance, it must be one, which may prevent the court from rendering substantial justice.</p> <p>When the policies are articulated, it is evident that the seven circumstances listed in the proposed 375(d) are repetitive and do not include important circumstances. For example, subparagraph (1) (the unavailability of lay or expert witnesses) appears to be a subclass of subparagraph (6) (a party's inability to obtain essential testimony). Similarly, while the proposed rule recognizes that the addition of a party may necessitate a continuance, subparagraph (5), it does not recognize that the addition of new claims or defenses may also necessitate a continuance.<sup>1</sup></p> <p>Finally, we do not feel that the items listed in the proposed 375(e) (other factors to be considered) would assist the court. But a clear statement of the relevant policies would. Accordingly, we propose the following rule 375(d).</p> <p><b>Grounds for Continuance of trial.</b> The Court may grant a continuance only upon an affirmative showing of a fundamental change in the case, not reasonable anticipated by the parties, which may prevent the Court from rendering substantial justice. Circumstances that may indicate such a fundamental change include:</p> | <p>The circumstances listed are not repetitive and do include important circumstances.</p> <p>If the addition of new claims or defenses would justify a continuance, that would be covered under rule 375(d)(7) ("A significant, unanticipated change in the status of the case as a result of which it is not ready for trial").</p> <p>The committee disagrees. It thinks that the consideration of these factors would assist the court in determining whether to grant a continuance.</p> <p>The committee supports the version of rule 375(d) that was circulated.</p> |

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|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <ul style="list-style-type: none"> <li>(1) The excusable unavailability of trial counsel;</li> <li>(2) The excusable unavailability of a party;</li> <li>(3) The unavailability of essential evidence including lay or expert testimony, documents or other materials, despite diligent efforts of counsel;</li> <li>(4) The substitution of trial counsel, but only where there is an affirmative showing that the substitution is required in the interest of justice;</li> <li>(5) The addition of a new party if: <ul style="list-style-type: none"> <li>(a) the new party has not had a reasonable opportunity to prepare for trial; or</li> <li>(b) the other parties have not had a reasonable opportunity to prepare for trial in regard to the new party's involvement.</li> </ul> </li> <li>(6) The addition of new claims or defenses, if they parties have not had a reasonable opportunity to prepare for trial in regard to the new claims or defenses.</li> </ul> |   |
| 31. | Hon. Suzanne N. Kingsbury<br>Presiding Judge<br>El Dorado County Superior Court | AM       | N                           | This proposed change has been a long-time coming. I always felt that it was unduly cumbersome to require the attorneys to do a noticed motion to continue a trial date when all parties agree to the continuance and the court does not object. I do have a few comments about particular provisions in the proposed rule  | The committee noted the commentator's support for the proposal. |

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|--|-------------|----------|-----------------------------|--|---|
|  |             |          |                             | <p>change:</p> <p>1. Under proposed rule 375.1(c)(1), as a presiding judge, I would prefer that the section be rewritten to mandate that the motion or application be directed to the judge assigned to hear the matter. If that judge is not available, THEN the application could be directed to the presiding judge or his or her designee. I fear that if the attorneys sense that the judge assigned to hear the trial will not be receptive to a request for continuance, that they will attempt to bypass the trial judge by going directly to the presiding judge. I do not wish to undermine the trial judge's wishes concerning these requests, nor do I wish to be placed in the position of countermanding the trial judge.</p> <p>2. In smaller courts that have a direct calendaring system, one reason for a continuance might be that the trial court has a priority criminal or juvenile matter that might reduce the number of days available for trial. Fr example, I hear criminal, civil, juvenile and family law cases, and if I have an in-custody criminal trial that is scheduled to commence the week after a six-week civil trial begins, I might need to bump the civil trial unless we can agree to take a hiatus during the pendency of the criminal trial. While this would fit within 375(e)(11), the court's schedule for other trials is certainly something that needs to be considered.</p> <p>Otherwise, I agree with the proposed changes.</p> | <p>The committee concluded that the subdivisions regarding which judge should hear motions under rules 375 and 375.1 are unnecessary and should be deleted.</p> <p>Their concerns are addressed by rule 375(e)(7) as well as (e)(11).</p> |

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|-----|--|----------|-----------------------------|---|---|
| 32. | Mr. Howard D. Krepack and Mr. Gary N. Stern<br>Gordon, Edelstein, Krepack, Grant, Felton & Goldstein<br>Los Angeles County | A        | Y                           | <p>We are pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason we are pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | The committee noted the commentator's support for the proposal. |
| 33. | Mr. William L. Larson, Esq.  | A        | N                           | I am pleased to support the proposed changes to the   | The committee noted the commentator's                           |

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|     | Kiesel, Boucher & Larson<br>Beverly Hills, California   |          |                             | <p>Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | support for the proposal.                                       |
| 34. | Ms. Diana Jessup Lee<br>Reicker, Pfau, Pyle, McRoy<br>& Herman LLP<br>Santa Barbara, California | A        | N                           | I am pleased to support the proposed changes to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-10). While Fast Track case management makes an important contribution to   | The committee noted the commentator's support for the proposal. |

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|-----|--|----------|-----------------------------|--|---|
|     |  |          |                             | <p>the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP03-10).</p> |   |
| 35. | Ms. Elizabeth Lopez<br>Law Office of Elizabeth A. Lopez<br>Mission Viejo, California | A        | N                           | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents  | The committee noted the commentator's support for the proposal. |

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|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | <p>unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> |   |
| 36. | Mr. John J. Machado<br>John J. Machado, Inc.<br>Modesto, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines</p>   | The committee noted the commentator's support for the proposal. |

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|-----|--|----------|-----------------------------|--|--|
|     |  |          |                             | <p>and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> |  |
| 37. | Justice Judith McConnell<br>Associate Justice<br>Court of Appeal, Fourth<br>District, Division One | AM       | N                           | <p>In 1987 the San Diego Superior Court became the first court in California to adopt civil delay reduction rules. The purpose of the program was to deal with the growing backlog of civil cases awaiting trial often three or four years from the date of filing. The plan was to implement a case management system that called upon the judiciary to take an increasingly more active role in monitoring a case from to end. The purpose was to provide to the public a forum for resolution of disputes that was reasonably prompt. To that end, the Superior Court adopted goals and timelines for resolution of civil cases that had been</p>   | The committee considered Justice McConnell's comments on the history of civil trial delay reduction. |

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|     |  |          |                             | <p>proposed by the American Bar Association.</p> <p>The success of the program is well known. While at first the change was painful for both the bench and bar because it required a complete change in the management of the pace of civil litigation, the bar and bench soon adapted. The expectation is now that a civil lawsuit will be resolved expeditiously unless there are circumstances that preclude that. I hope we do not lose sight of the importance of speedy resolution to the public we serve.</p> <p>[Justice McConnell's specific comments on SP03-09 and SP03-11 are included in the charts in these proposals.]</p> <p>Overall I was relieved to see the actual proposals were not exactly as portrayed in the press. Thank you for the opportunity to comment.</p> | <p>The committee believes that the amended rules and standards will continue to promote the efficient resolution of cases.</p> <p>[The committee's responses to Justice McConnell's specific comments on SP03-09 and SP03-11 are included in the charts on these proposals.]</p> |
| 38. | Mr. Raymond J. McMahon<br>Law Offices of Bonne,<br>Bridges, Mueller, O'Keefe &<br>Nichols<br>Santa Ana, California | A        | N                           | <p>Thank you for the opportunity to accept comments on SP03-09, SP03-10, and SP03-11. I strongly support the proposed changes to these Rules of Court. As a trial attorney, it has been increasingly difficult to perform in a professional manner with the unreasonable time restraints placed upon attorneys by the bench. As currently set up, the rules limit and/or prevent routine civil courtesies which should not be abandoned. The parties are often forced into incurring unnecessary costs and wasting resources because they</p>   | <p>The committee noted the commentator's support for the proposal.</p>   |

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|     |   |          |                             | <p>must comply with arbitrary time deadlines.</p> <p>I urge the council to promote cooperation between the bench and bar as opposed to permitting an arbitrary, adversarial process. All parties involved would benefit by the change in the proposed rules.</p>  |  |
| 39. | Kevin McNaughton<br>Schaffer, Lax, McNaughton & Chen<br>Los Angeles, California           | A        | N                           | The panel recommendations set forth a range of important common sense circumstances that a court should be required consider when considering continuing a trial. While retaining the policy that trial dates are firm, the changes recognize that the need for flexibility and making the applications, on shorter notice. The amendment would make the procedures for requesting continuances more flexible by allowing the consideration of a greater number of facts and circumstances in determining whether to grant a continuance. Current law is too rigid and often counter to the fair administration of justice. | The committee noted the commentator's support for the proposal.  |
| 40. | Ms. Robin Meadow<br>President<br>Los Angeles County Bar Association<br>Los Angeles County | AM       | Y                           | The report of our Task Force on Continuances, which our Board of Trustees unanimously adopted on August 27, 2003, including its suggested modifications to the recommendations of the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases (Judicial Council proposals SP03-09, SP03-10, AND SP03-11), constitute our response to the invitation for public comment on these special cycle proposals.   | The committee noted the Los Angeles County Bar Association's general support for the proposals of the Blue Ribbon Panel and its specific proposals for further changes. [The report stated: "On August 27, 2003, the Board voted unanimously in favor of the Task Force's opinion that the ALCBA strongly endorse and urge the Judicial Council to approve the proposed changes."] |

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|--|-------------|----------|-----------------------------|---|---|
|  |             |          |                             | <p>Our Litigation Section also unanimously endorses the report of the Task Force on Continuances, and it expects to submit its separate letter of endorsement to the Judicial Council.</p> <p>Our Board's representative from the Beverly Hills Bar Association, Cynthia Pasternak, has asked us to include this statement on behalf of BHBA: "As the representative of the Beverly Hills Bar Association to the Los Angeles County Bar Association's Board of Trustees and on behalf of BHBA, I ask you to advise the Judicial Council that BHBA supports in principle the Blue Ribbon Panel Recommendations. However, because of the September 12th comment deadline, we are unable to fully evaluate LACBA's additional suggestions, and we therefore cannot endorse them at this time."</p> <p>We appreciate the time, research, and effort of the Blue Ribbon Panel that resulted in the development of the proposed recommendations. Thank you for the opportunity to comment.</p> <p>The main recommendations of the report regarding SP03-10 are:</p> <ul style="list-style-type: none"> <li>• Include a provision in rule 375 that would allow the parties to stipulate to continue a trial date but only if the stipulations is submitted no later than 48 hours prior to trial and limiting the number of</li> </ul> | <p>The committee disagreed with this suggestion, which was not part of the Blue Ribbon Panel's recommendations. The committee regards the inclusion in rule</p> |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

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|-----|--|----------|-----------------------------|--|--|
|     |  |          |                             | <p>such stipulations. And, delete the provision providing that such stipulations are considered a factor in the granting of a continuance.</p> <ul style="list-style-type: none"> <li>• Include in the grounds for continuances, rule 375(d)(3), the unavailability of trial counsel due to engagement in trial and delete the engagement in trial provision as a factor in rule 375(e).</li> <li>• Incorporate as a provision in the factors to be considered in continuing a trial date engagement in settlement discussions.</li> </ul> <p>[The letter from Ms. Meadows concludes:]</p> <p>Although we believe that the foregoing modifications will enhance the effectiveness of the proposed changes, we further strongly urge the passage of the Blue Ribbon Panel's proposed changes even if these modifications are not adopted.</p> | <p>375(e)(9) of the stipulation as a factor to be considered as the proper placement of this item.</p> <p>The committee left the item where it was in the proposal.</p> <p>The committee strongly disagreed. Under exceptional circumstances, settlement discussions might be covered under rule 375(e)(11), but they would not ordinarily constitute a circumstance warranting a continuance.</p> |
| 41. | Hon. Eileen C. Moore<br>Associate Justice<br>California Court of Appeal<br>Santa Ana, California |          |                             | <p>In setting a case for trial, the court may consider all relevant circumstances, including the following:<br/>I endorse most of the proposed changes to rule 375, and the adoption of rule 375.1 and the repeal of section 9. I would change the wording a little, however, in rule 375, subdivisions (b) and (d)(5).</p>  |  |

**SP03-10**

**Motions and Applications for Continuance of Trial**

**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

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|-----|-----------------------|----------|-----------------------------|--|---|
|     |                       |          |                             | <p>1. Rule 375(b):<br/>My experience as a trial judge was that a continuance was most often necessary when something unanticipated arose. For example, there was a medical problem with counsel or a party or a witness. Or, counsel had a good faith belief he or she would be available, but something unavoidable happened in another courtroom, changing his or her availability. Under those circumstances, there was not time to bring a noticed motion. Thus, I would make following change:</p> <p>Add: "Unless a party is unavoidably unable to do so," at the beginning of the first sentence.</p> <p>2. Rule 375(d)(5):<br/>There is a "game" that is something played in order to avoid either a judge's ruling or a continuance. It involves bringing in a last minute, but unnecessary, cross-defendant. Later, the cross-defendant is quietly dismissed. For this reason, I would make a slight change to this proposed subdivision:</p> <p>"The addition of a new party, <u>unless the court determines the issue involving the new party should be bifurcated</u>, if:"</p> | <p>The committee agreed with Justice Moore's concern, but dealt with it by instead adding the second sentence after "as soon as" the words: "reasonably practical once. . . ."</p> <p>The committee believed that the court would already have the discretion to order bifurcation or impose other conditions upon the continuance under rule 375(e)(10).</p> |
| 42. | Hon. Dennis E. Murray | AM       | N                           | I support taking the criteria for continuances from the  | The committee thought that it is appropriate  |

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|-----|--|----------|-----------------------------|---|---|
|     | Presiding Judge<br>Superior Court of California,<br>County of Tehama                               |          |                             | Judicial Administration Standards. My only objection is that under subdivision (d) and subdivision (e), the rule includes language about what may indicate good cause and what factors maybe included in considering a motion for continuance. These criteria are not binding; they're not all inclusive; they really are recommendations and, therefore, should be in the Standards of Judicial Administration and not in the Rules of Court.  | to include the criteria in rule 375. Rules may indicate factors that may constitute good cause and circumstances that may support the court's exercising its discretion to continue a trial date.   |
| 43. | Ms. Jody Patel<br>Court Executive Officer<br>Superior Court of California,<br>County of Sacramento | A        | Y                           | This helps attorneys but does not have a significant impact on the court.   | The committee agreed.   |
| 44. | Ms. Lisa Mitts Patrick<br>Law Office of Lisa Mitts<br>Patrick<br>Fullerton, California             | AM       | N                           | <p>I am pleased to have an opportunity to comment on the proposed changes . . . .</p> <p>For now, without expedited discovery, and without good ADR procedures before Trial, Trial within one year and without a reasonable approach to needed continuances is wholly unrealistic, and unfair to all litigants . . . .</p> <p>With regard to [Proposal SP03-10], I am also in complete agreement that a request for continuance of Trial should be allowed Ex Parte. I would go further and request to even provide that it should be considered by stipulation as well . . . . I think that even an Ex Parte motion should not be required, and the court should entertain a Stipulation of counsels . .</p> | <p>The committee noted the commentator's support for the proposal.</p> <p>The committee agrees that parties should be able to apply for ex parte application as well as by noticed motion. However, it does not support allowing my trial dates to be continued solely by continuance of the parties. The stipulation of the parties is a</p> |

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|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <p>..</p> <p>For the most part therefore, I am opposed to the court requiring a Motion or an Ex Parte Application in lieu of a stipulation. Safeguards can include permitting one stipulation for continuance of trial, with a continuance of no more than say sixty (60) days.</p>  | factor to be considered by the court.   |
| 45. | Hon. Wayne L. Peterson<br>Judge<br>Superior Court of California,<br>County of San Diego | AM       | Y                           | <p>I am responding on behalf of the civil division judges of the San Diego Superior Court with respect to the proposed changes to the rules of case management.</p> <p>To begin with, we adopt the views expressed in the attached email from Justice McConnell. (See comment 37 above.)</p> <p>San Diego has a lengthy and successful history in effective civil case management and we offer the following comments based on that experience.</p> <p>The case management conference and a firm trial date are the most important aspects of a successful case management program. As a sub-set of the Case Management Conference, the most productive feature of the meeting is the personal presence of the attorneys. Therefore, any relaxation of the rules, which would permit the attorneys to avoid the hearing, is counter-productive to the efficient management of civil cases. . . .</p> | The committee agreed that firm trial dates are very important. It also agreed that case management conferences may be very valuable. But in some circumstances conferences may not be necessary, as the rules already indicate. |

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|-----|--|----------|-----------------------------|--|--|
|     |  |          |                             | <p>It is rare that a trial judge in a busy cosmopolitan court has the opportunity to review case management conference statements before the calendar is actually called. It is almost as rare that attorneys file the statements five days before the hearing. Often the Case Management Conferences are continued for a myriad of reasons. With these realities in mind, to change the rule to require the statements fifteen days in advance is "make-work" for the lawyers, without any practicable benefit to the judge. Leave the filing requirement at five days.</p> <p>The balance of the proposed changes are satisfactory with these added notes: (a) incorporating Standard 9 into the rules is appropriate; (b) the criteria for setting trial dates is appropriate; and (c) the criteria for granting continuances is appropriate.</p> | <p>The issue of the time for service and filing of case management statements (currently 15 days before the conference) is not part of the current rules proposals, and may be considered in the future when the committee undertakes a comprehensive review of case management rules in 2003-2004.</p> <p>The committee noted the support for incorporating section 9 into rule 375 and for listing the criteria for the court to consider granting continuances.</p> |
| 46. | Hon. Alan Pineschi<br>Presiding Judge<br>Superior Court of California,<br>County of Placer           | A        |                             | No specific response on this particular proposal.  | No response required.  |
| 47. | Ms. Karen Reak<br>Attorney<br>Ballard, Rosenberg, Golper<br>and Savitt<br>Universal City, California | A        | N                           | No specific comment.   | No response required.  |
| 48. | Hon. James Ruggiero<br>Judge<br>Superior Court of California,  | AM       | N                           | <p><u>Rule 375(a):</u><br/>           With this proposed amendment, how can a court set two or three trials on the same day for an attorney? In</p>  | The committee regards the policy that trial dates are firm to be important and practical.  |

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|     | County of Shasta                                   |          |                             | order to meet caseload-processing timelines and to be able to set all trials within a reasonable period of time in a jurisdiction with insufficient trial departments due to insufficient judicial positions, such double and triple settings are necessary. How then could all such dates be considered as certain? Moreover, multiple settings on the same day facilitate settlement.   |   |
| 49. | Mr. Leonard Sacks<br>Attorney at Law               | AM       | N                           | Cases subject to dismissal for lack of prosecution should have specific recognition is rule 375.1.  | It is not necessary for the rule on advancing, specially setting, or resetting trial dates, to specifically recognize dismissals for lack of prosecution. |
| 50. | Steven Sadd<br>Attorney<br>Los Angeles, California |          |                             | <p>I am pleased to support the proposed changes to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-10).</p> <p>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadline and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and extent</p> | The committee noted the commentator's support for the proposal.   |

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|-----|--|----------|-----------------------------|--|---|
|     |  |          |                             | <p>plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Tract guidelines is meritorious' however the strategic addition of a degree of flexibility as reflected in the proposed rule changes better ensure fair and efficient case management in California.</p> <p>For this reason I am leased to support the proposed changes to the Rules of Court (SP03-10).</p>   |   |
| 51. | Mr. Steven L. Saldo<br>Law Offices of Steven L. Saldo<br>San Luis Obispo, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of</p> | The committee noted the commentator's support for the proposal. |

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|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | <p>flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p>   |   |
| 52. | Ms. Linda Savitt<br>Universal City, California                                      | A        | N                           | Critical for the proper administration of justice.  | The committee noted the commentator's support for the proposal. |
| 53. | Mr. Robert E. Savitt<br>Attorney<br>Los Angeles, California                         | A        | N                           | It is important that these rules be amended to allow for the proper administration of justice as opposed to artificial deadlines.   | The committee noted the commentator's support for the proposal. |
| 54. | Mr. Jack Schaedel   | A        | N                           | No specific comment.  | No response required.   |
| 55. | Mr. Robert S. Schlifkin<br>Law Offices of Robert S. Schlifkin<br>Los Angeles County | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in</p> | The committee noted the commentator's support for the proposal. |

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|-----|--|----------|-----------------------------|--|---|
|     |  |          |                             | <p>great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> |   |
| 56. | Mr. Karl W. Schoth<br>Law Offices of Schoth,<br>Creyaufmiller & Associates<br>Glendora, California | A        | N                           | <p>I support the proposed changes referenced above. There really is a need to allow for more flexibility in the deadlines and in the granting of continuances, particularly for scheduling multiple expert witnesses.</p> <p>I have been practicing law for 19 years and tried many cases to verdict. Greater flexibility for trial scheduling will work to the benefit of all involved. I ask the Judicial Council to adopt and implement the proposed changes to SP03-09, -10, and -11 as soon as possible.</p>  | The committee noted the commentator's support for the proposal. |
| 57. | Mr. Michael V. Severo<br>Law Offices of Michael V. Severo<br>Los Angeles, California               | A        | N                           | Please accept this letter as our [firm's] expression of support for the proposed changes to the Rules of Court, Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance  | The committee noted the commentator's support for the proposal. |

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|--|-------------|----------|-----------------------------|---|--------------------|
|  |             |          |                             | <p>of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11).</p> <p>Unquestionably, Fast Track case management has been successful in preventing unnecessary trial delays and has thus resulted in the efficient administration of our courts. However, in ensuring that effective administration of the system does not conflict with the parties' rights to a fair trial and the full presentation of all relevant evidence on all issues, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>An arbitrary adherence to deadlines and the refusal to grant continuances can in many instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts, and the complexities of the case (such as the nature and the extent plaintiff's injuries might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management, as well as fair trials for all participants.</p> <p>For those reasons I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11.)</p> |                    |

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|-----|--|----------|-----------------------------|---|---|
| 58. | Ms. Sarah Shena<br>Bourdette & Partners<br>Visalia, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | The committee noted the commentator's support for the proposal. |
| 59. | Mr. Todd E. Slaughter  | AM       | N                           | I would like to applaud the work of the committee.  | The committee noted the commentator's                           |

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|--|---|----------|-----------------------------|---|--|
|  | Reiner, Simpson, Timmons & Slaughter<br>Redding, California |          |                             | <p>The proposals set forth more realistic timelines concerning the disposition of cases. The current "one-size fits all" format often puts counsel and the court in an unnecessary adversarial environment, often to the detriment of the client and the civil judicial system itself. I am hopeful that the courts will perceive the changes as providing a greater opportunity to work with counsel to properly and efficiently manage the disposition of cases.</p> <p>I would suggest certain modifications to rule 375. Under 375(b) a party must bring a motion for continuance "as soon as the necessity for the continuance is discovered." This creates an unnecessary potential blockade to an appropriate request for continuance. Very often counsel, particularly busy trial counsel, discover the "necessity" for a potential continuance in the last few weeks before the trial is scheduled to commence. One type of situation involves difficulty in completing expert discovery or preserving expert testimony for trial for potentially unavailable witnesses. If several days or weeks are taken in attempting to work it out or accomplish the intended results, one finds that the opposition suddenly argues against the request for continuance by asserting that the request for continuance should have been earlier. At that point, the adversary is usually attempting to gain an advantage that will occur if the continuance is not granted. The proposed verbiage that the motion must</p> | <p>support for the proposal.</p> <p>The committee has revised the second sentence of rule 375(b) to include after "as soon as" the words: "reasonably practical once. . . ." This should dispose of the problem identified by the commentator.</p> |

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|  |             |          |                             | <p>be brought "as soon as the necessity . . is discovered" would tend to sanction this type of resistance to an appropriate motion for continuance. When the court finds that the timing of the motion was not soon enough, the court dos not get to the merits of the request. I would simply suggest that this language be replaced with the words "shall promptly move for continuance when the necessity for the continuance is discovered." This wording provides a great deal more latitude to the court and yet still requires that a party not engage in unnecessary delay, which is costly to the adverse party and the court.</p> <p>Next, under the factors to be considered in evaluating the appropriateness of a continuance, with the delay reduction process the most common problem that we run into is that the plaintiff's medical condition is not yet stable or has undergone a significant change that requires further medical evaluation and treatment as the trial approaches. Although the factors discuss "significant changes" concerning matters at issue, it does not specifically address this most common cause for the request for a continuance. I would suggest that this factor be specifically noted as an element that the court can and should consider. I would suggest that language to the effect that the court must consider a continuance if it is satisfied that there is a "significant change in the medical condition or status of an injured party that requires further medical assessment, treatment or time to assess said condition."</p> | <p>The committee has used alternative wording.</p> <p>The committee regards the general provisions in rule 375(d)(7) and (e)(11) to be sufficient to cover this situation.</p> |

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|-----|---|----------|-----------------------------|--|---|
| 60. | Mr. Daniel A. Stenson<br>Law Offices of John E. Hill<br>Oakland, California |          |                             | <p>I am pleased to support the proposed changes to Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | The committee noted the commentator's support for the proposal. |
| 61. | Mr. Daniel J. Sullivan  | A        | N                           | I am pleased to support the proposed changes to the  | The committee noted the commentator's                           |

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|-----|---|----------|-----------------------------|---|---|
|     | Law Offices of Daniel J. Sullivan<br>Sacramento, California |          |                             | <p>Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | support for the proposal.                                       |
| 62. | Mr. Don C. Sutton<br>Law Office of Don C. Sutton            |          |                             | I am in support the proposed change to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-10). While Fast   | The committee noted the commentator's support for the proposal. |

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|-----|--|----------|-----------------------------|--|---|
|     |  |          |                             | <p>Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-10).</p> |   |
| 63. | Ms. Vivienne A. Swanigan<br>Deputy City Attorney<br>Los Angeles City Attorney's Office<br>Los Angeles County | A        | N                           | In particular, the changes allowing a request to continue trial to be brought by ex parte application would be helpful for the rare occasions when something occurs at the last minute.  | The committee noted the commentator's support for the proposal. |
| 64. | Mr. Robert M. Tessier<br>Attorney  | A        | N                           | No specific comment.   | No response required.   |

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|-----|--|----------|-----------------------------|--|---|
|     | Celabasis, California  |          |                             |  |   |
| 65. | Ms. Judith D. Thompson<br>Deputy City Attorney<br>Los Angeles City Attorney's Office<br>Los Angeles County | A        | N                           | Ex parte application to request a trial continuance makes sense because the "unanticipated events" which justify the continuance do not always occur prior to the motion cut-off and service deadline of a particular case. By their very nature, these events can occur at anytime and should be legitimately considered by the court especially if going forward with trial on the initial trial date could result in severe prejudice to the party impacted by the unanticipated event (i.e., newly discovered evidence which justifies further discovery, illness or death of an expert or other essential witness, etc.).   | The committee agreed that it is appropriate to authorize ex parte applications for a continuance. |
| 66. | Ms. Nikke Tolt<br>Attorney<br>Beverly Hills, California  | A        | N                           | I have recently reviewed the proposed changes to the Rules of Court applying to trial court and civil case management (SP03-09), motions and applications for continuance of trial (SP03-10), and trial delay reduction and case disposition time standards (SP03-11). The changes are clearly an adjunct to the Fast Track Case Management Rules, which, although having made an important contribution to the efficiency of our courts and the prevention of unnecessary trial delays, has also, in certain instances, caused undue hardships to certain litigants due to the lack of flexibility in the application of the deadlines and in granting of continuances.<br><br>As a solo practitioner, the proposed changes are particularly welcome, as conflicts often arise during | The committee noted the commentator's support for the proposal.                                   |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | the course of a practice that is focused on trial work. It is important for the trial judges to understand that they have latitude in administering Fast Track guidelines so that individual circumstances may be taken into consideration for the best interests of the litigants. Although the overall purpose of Fast Track guidelines is meritorious, the changes are welcomed, and we appreciate your efforts in this regard. For this reason, I am pleased to support the proposed changes to the Rules of Court, as indicated above.  |   |
| 67. | Ms. Victoria E. Townsend<br>Attorney<br>MacMorris & Carbone | AM       | N                           | I think the proposed changes to SP03-10 are excellent, except possibly the proposed revision to Rule 375(a), that "...the dates assigned for trial are firm...". That would be acceptable if trial dates were only assigned at the time of the initial or subsequent Case Management Conferences, but not if trial dates can continue to be summarily assigned by court without a current inquiry into the available dates of trial counsel. If the latter is the case, the proposed revised rule appears as if it would preclude the San Francisco Superior Court from its current and equitable practice of affording a trial date objection hearing date at the same time initial notice of trial is sent, so that counsel with scheduling issues can obtain a new trial date on written objection to the initial trial date an appearance at the objection hearing, without having to do a motion or an ex parte application for continuance of trial. That practice makes it much easier for the lawyers to manage their caseloads and seems more | The committee noted the commentator's support for the proposal.<br><br>Under rule 212, trial dates should generally be assigned at the time of the initial case management conference or, if appropriate, under the circumstances of the case, at a later conference. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | efficient and economical for the court, as well.   |   |
| 68. | Mr. Peter A. Viri<br>Attorney<br>Cal. State Auto. Association<br>Stockton, California | A        | N                           | No specific comments.  | No response required.   |
| 69. | Robert C. Von Bargaen<br>Attorney<br>Ryan, Datomi & Flores<br>Glendale, California    | A        | N                           | Agreed without any specific comment.   | No response required.   |
| 70. | Mr. Andrew R. Weiss<br>Baker, Manock & Jensen<br>Fresno County                        | A        | N                           | Current fast track rules have made life for litigators very difficult by imposing unrealistically short time constraints and unfairly rigid continuance policies. With the newer longer summary judgment notice requirements, parties are being denied a fair opportunity to bring such motions. A longer period of time between case filing and trial is needed to remedy this.<br><br>I strongly support the proposed changes.   | The committee noted the commentator's support for the proposal. |
| 71. | Mr. Mark West<br>Good, West & Schuetze<br>Pasadena, California                        | A        | N                           | I am pleased to support the proposed changes to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-10). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.<br><br>Rigid adherence to deadlines and the refusal to grant a | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | <p>continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP03-10).</p> |   |
| 72. | Mr. Richard B. Williams<br>Assistant Chief Counsel<br>California Department of<br>Transportation<br>Sacramento, California | A        | N                           | This proposal would provide trial courts with much more latitude in granting continuances and lead to more equitable treatment of parties and attorneys who encounter unexpected emergencies which would adversely affect preparation for and conduct of trial.   | The committee noted the commentator's support for the proposal. |
| 73. | Ms. Michelle Williams-Court<br>Bet Tzedek Legal Services   | A        |                             | I am pleased to support the proposed changes to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-10). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.   | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP0310).</p> |   |
| 74. | Mr. David L. Winter<br>Moore, Winter et al.<br>Glendale, California | A        | N                           | <p>This is a major step forward in considering the concerns of trial counsel. This allows for reasoned consideration of requests to continue and should remove arbitrary denials of continuances. It is important for judges to fairly apply these principles. I have personally experienced trial continuances by the court for a judge's vacation, and seen that same judge refuse to respect an attorney's vacation when setting a trial date. I know that approaching trial dates and the expense that trial adds to defense costs is a major factor in resolving cases and appreciate the significance of that step, but believe that the law and</p>   | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|     | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | the court must also recognize that sometimes the best course for the court is to change a trial date. These guidelines should help considerably.  |   |
| 75. | Mr. Steven Zwick<br>Law Office of Steven Zwick<br>Mission Viejo, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and</p> | The committee noted the commentator's support for the proposal. |

**SP03-10**  
**Motions and Applications for Continuance of Trial**  
**(amend Cal. Rules of Court, rule 375; adopt rule 375.1; repeal Cal. Stds of Jud. Admin., § 9)**

|  | Commentator | Position | Comment on behalf of group? | Comment   | Committee Response |
|--|-------------|----------|-----------------------------|-----------|--------------------|
|  |             |          |                             | SP03-11). |                    |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|    | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|----|--|-----------------|------------------------------------|---|---|
| 1. | Mr. John C. Adams III, Esq.<br>Hunt & Adams<br>Santa Ana, California | A               | N                                  | <p>I am pleased to sending this letter in support of the proposed changes to the Rules of Court applying to Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant reasonable and appropriate continuances can in certain circumstances result in injustice to litigants and discourage basic professional courtesies and accommodations between counsels. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances (such as trial counsel's legitimate calendar conflicts or the facts that the nature and extent of plaintiff's injuries have not been fully determined) might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility, as reflected in the proposed rule changes, would better ensure fair and efficient case management in California.</p> <p>As discussed as a recent Bench and Bar meeting initiated by the Presiding Judge of the Orange County Superior Court (Hon. Frederick Horn), such flexibility may also relieve some of the time and</p> | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|    | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|----|---|----------|-----------------------------|--|---|
|    |   |          |                             | <p>expense burdens on civil trial panels during this time of reduced court budgets.</p> <p>For these reasons, I am wanted to communicate my support for the proposed changes to the Rules of Court (SP03-11).</p>  |   |
| 2. | Mr. James Alquist<br>Law Offices of Steven Zwick<br>Mission Viejo, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|    | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|----|--|----------|-----------------------------|---|---|
|    |  |          |                             | I am pleased to support the proposed changes to the Rules of Court (SP03-11).   |   |
| 3. | Mr. Steven D. Archer<br>Robins, Kaplan, Miller & Ciresi LLP<br>Los Angeles, California | A        | Y                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | The committee noted the commentator's support for the proposal. |

**SP03-11**

**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|    | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|----|---|----------|-----------------------------|--|---|
| 4. | Laurie E. Barber, Chair<br>Complex Litigation<br>Committee of the Litigation<br>Section of the California State<br>Bar<br>San Diego, California | AM       | Y                           | <p><u>Stds. of Jud. Admin., § 2.1(n)(1)</u>: The Complex Litigation Committee agrees with the changes to the Standards of Judicial Administration, section 2.1 in its entirety except that it would add to section 2.1(n)(1) a new section (j) as follows:</p> <p align="center">(j) Pendency of an appeal or writ which the trial court concludes warrants a departure from the case disposition time standards.</p> <p>The committee believes there may be instances where an important matter is on appeal such as the discovery of privileged information that is critical to the underlying case and warrants the trial court waiting until a final decision is rendered from a higher court before continuing the matter at the trial court level.</p> | The committee noted the Complex Litigation Committee's general support for the proposed changes. However, it did not include proposed new section 2.1(n)(1)(j) in the Standards. There would be practical problems for court clerks and administrators to determine which appeals or writs satisfied this criteria. |
| 5. | Mr. Sean Barry<br>California State Automobile<br>Assn.<br>Santa Rosa, California  | A        | N                           | <p>I have been handling civil litigation for 25 years. The fast track rules made a great difference, and we need to continue the scheme. However, rigid adherence to the rules results in unfairness, needless expense, and injustice at times.</p> <p>This proposal is a good effort at incorporating more flexibility into the fast track system. I whole-heartedly support it.</p>  | The committee noted the commentator's support for the proposal.   |
| 6. | Mr. David H. Bent<br>Attorney   | A        | N                           | Proposed rules 204 and 209 will provide greater flexibility, more efficient administration, and fairer   | The committee noted the commentator's support for the proposal.   |

**SP03-11**

**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|    | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|----|--|----------|-----------------------------|---|---|
|    | California State Auto Assn. Inter-Ins. Bureau  |          |                             | <p>application of the standards for disposition of cases. I concur with the reasoning set forth in the proposal, having experienced differing application of the standards among the various jurisdictions within which I practice. Some take a Draconian approach, rarely bending to the pleas of counsel, while others are more flexible in their application of the standards. The proposed guidance will be greatly appreciated.</p> <p>Additionally, having reviewed the factors, which should be taken into consideration in applying the standards, I believe all of them are appropriate. Obviously, not all will always be applicable, but it does seem to me that they provide trial courts with adequate guidance in case management, without unduly infringing upon the discretion of the courts to manage their overall caseload in a manner best suited to the individual jurisdiction.</p> |   |
| 7. | Committee on the Administration of Justice<br>The State Bar of California<br>San Francisco, California |          | Y                           | The State Bar of California's Committee on Administration of Justice ("CAJ") has reviewed and analyzed the proposals of the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases (the "Blue Ribbon Panel") relating to trial setting, continuances, and case management. CAJ commends the Blue Ribbon Panel for its excellent work on these proposals, and appreciates the opportunity to submit these comments. In general, CAJ supports   | The State Bar's committee noted the Committee on the Administration of Justice's general support for the proposals and its support for this proposal in its entirety. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|    | Commentator                             | Position | Comment on behalf of group? | Comment  | Committee Response  |
|----|---|----------|-----------------------------|--|---|
|    |   |          |                             | the proposed changes as significant improvements to the effective administration of civil litigation [and] CAJ supports the proposed amendments [in proposal (SP03-11)] in their entirety.   |   |
| 8. | S. Colin Brown<br>[No address provided] | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|    | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response   |
|----|---|----------|-----------------------------|---|--|
|    |   |          |                             | I am pleased to support the proposed changes to the Rules of Court (SP03-11).   |  |
| 9. | Bruce Brusavich, President<br>Consumer Attorneys of<br>California | A        | Y                           | <p>The Consumer Attorneys of California (CAOC) is pleased to support the proposed changes to the Rules of Court that apply to Fast Track Guidelines and Continuances (Item No. SP03-09; SP03-10; SP03-11.) CAOC credits the Blue Ribbon Panel with making important efforts to ensure that Fast Track guidelines and the grant of continuances will be administered with a heightened degree of informed flexibility. While Fast Track case management in California currently makes an important contribution to the efficient administration of our courts and works to prevent unnecessary trial delays, Consumer Attorneys believes that the proposed rule changes make it clear that courts have the option to consider credible, real world factors in administering the guidelines instead of being lock into a rigid adherence to statistical thresholds.</p> <p>Personally, I often attend state bar functions where I hear elder trial lawyers talk about practicing law at a time when being a trial lawyer was a noble and civil profession. They recount that trial judges actually liked and respected trial lawyers and treated them courteously. The lawyers, on their part, treated the judges with the same courtesy and respect. Practicing law was serious business, but the business of living was also respected. Trial conflicts, vacations, weddings, illnesses, the death of family members or</p> | The committee noted the support of the Consumer Attorneys of California for the proposals. |

**SP03-11**

**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|--|----------|-----------------------------|--|---|
|     |  |          |                             | <p>friend's funerals were events that both the bench and the bar could accommodate while still achieving an efficient disposition of the case load. The proposed rule changes make a significant effort to guarantee that civility and respect will always have a place in case management in California....</p> <p>The proposed changes to Trial Delay Reduction and Case Disposition Time Standards (new proposed Rule 204 and amendments to Rules 208 &amp; 209) make civil case management procedures consistent with contemporary case management. The helpful statement of intent in Rule 204 that "the rules are to be applied in a fair, practical, and flexible manner so as to achieve the ends of justice" becomes a guiding principle. The specific proposed amendment to Rule 209(b) providing slightly less rigorous time disposition goals for unlimited civil cases should decrease current pressure on the courts. Overall these changes establish more realistic benchmarks. For the above reason the Consumer Attorneys of California are pleased to support the proposed rule changes on Fast Track guidelines and continuances (SP03-11).</p> | The committee noted CAOC's specific support for the proposed new rule 204, the amendments to rules 208 and 209, and the modification of the case disposition time goals for unlimited civil cases to establish more realistic benchmarks. |
| 10. | Mr. Sean M. Burke<br>Law Offices of Sean M. Burke<br>Newport Beach, California | A        | N                           | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time   | The committee noted the commentator's support for the proposal.   |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|--|----------|-----------------------------|--|---|
|     |  |          |                             | <p>Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 11. | Michael A. Byrne<br>McKay, Byrne & Graham<br>Los Angeles, California | A        | N                           | <p>I have been a trial lawyer for almost 35 years, and while I am in complete agreement with the reasons fast track was adopted, it has become clear that more flexibility is needed to allow for individual differences in cases, as rigid adherence to rules can sometimes result in irreparable harm to parties through no fault of their own. Some cases simply do not fit within the fast tract parameters and consideration needs to be</p>  | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|---|---|
|     |  |                 |                                    | given to them.  |   |
| 12. | Mr. Richard P. Caputo<br>Attorney/Mediator<br>San Jose, California | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-11).</p> | The committee noted the commentator's support for the proposal. |
| 13. | Mr. Donn W. Christensen<br>Christensen Law Offices                 | A               | N                                  | While the proposed changes in SP03-09 and SP03-10 are both welcome and necessary changes, no proposal   | The committee noted the commentator's support for the proposal. |

**SP03-11**

**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     | Arcadia, California                                 |          |                             | <p>is more welcome or necessary than the proposed new CRC 204 and the amendments to CRCs 208 and 209 found in SP03-11.</p> <p>As a sole practitioner, I cannot emphasize how these changes will provide a more efficient and just administration of courtroom dockets while still assuring a prompt and efficient resolution of legal matters.</p> <p>The current system, although necessary to resolve the backlog of cases that existed at the time it was instituted, now acts to obstruct or interfere with the just administration of claims as often as it assists.</p> <p>I applaud the Judicial Council for recognizing that the rules have served their purpose well. I also applaud the Council for adopting new rules and amending the existing rules to address the current need for flexibility and the actual status of court dockets today throughout California.</p> <p>The new Rule 204 and the proposed amendments to Rules 208 and 209 will be welcome changes to myself and many other small practitioners on both sides of the bar. Thank you for taking the time to consider my comments, and please keep up the excellent work.</p> |   |
| 14. | Mr. Raymond Coates<br>President, California Defense | A        | N                           | I am an attorney practicing civil litigation in California for the past 35 years. I am former  | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|  | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b> |
|--|---|-----------------|------------------------------------|--|---------------------------|
|  | Counsel<br>c/o Low Ball & Lynch<br>Redwood City, California |                 |                                    | <p>President of the Association of Defense Counsel of Northern California and am currently President of the California Defense Counsel. I am writing to support the proposed changes to the Trial Setting and Case Management, Motions and Applications for Continuances of Trial, and Trial Delay Reduction Rules.</p> <p>My practice is primarily in the San Francisco Bay Area Court. Having practiced under procedures prior to the Trial Delay Reduction Rules and after the Trial Delay Reduction Rules leads me to support the proposed changes. While no one supports a return to the years prior to the adoption of these rules, under current practices, some judges view all cases the same and insist upon a setting for trial within one year of filing no matter what the circumstances of each particular case. Some judges do not care that a defendant is not served or brought into a case until six months after filing, that there are complicated law and motion hearings that need to be completed before setting for trial, that there is extensive discovery to be conducted, or that the interests of justice and the rights of the individual litigants do not warrant a trial within one year. Some courts refuse continuances even though circumstances warrant it. This has led to situations such as my current situation where I am set for ten trials between now and the end of the year and am double set on several dates despite protests.</p> |                           |

**SP03-11**

**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | <p>The proposed changes appear to be to introduce a factor other than time in the setting of cases for trial. The new rules make an effort to consider their individual case, the interests of the litigants, and the demands upon the attorneys in disposing of cases. I thus believe that they are a vast improvement over the current situation.</p> <p>It is sometimes forgotten that the courts are in a "service industry." They exist to serve the dispensing of justice to litigants before them. This means that while it is important for cases to be moved along, it is more important that justice is fairly and equitably dispensed. These proposed rules go a long way in moving the courts in that direction. I heartily support them.</p> |   |
| 15. | Mr. Phillip A. Cooke<br>Law Offices of Phillip A. Cooke<br>Yuba City, California   | A        | N                           | Fast track rules in most of the court I practice in have been used, as the proposed rules seem to intend. It is therefore urged that the rules suggested be adopted as reflecting reasonable flexibility for the trial judges and the attorneys.  | The committee noted the commentator's support for the proposal. |
| 16. | Mr. Carl E. Douglas<br>Law Offices of Carl E. Douglas<br>Beverly Hills, California | A        | N                           | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the   | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>   |
|-----|---|-----------------|------------------------------------|---|---|
|     |   |                 |                                    | <p>efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 17. | Mr. Joel Douglas<br>Bonne, Bridges, Mueller,<br>O'Keefe & Nichols<br>Los Angeles, California        | A               | N                                  | Good.   | The committee noted the commentator's support for the proposal.   |
| 18. | Steven R. English, Chair<br>Litigation Section of the<br>California State Bar<br>Los Angeles County | A               | Y                                  | This letter is written on behalf of the Litigation Section of the Los Angeles County Bar Association. As you may know, the Litigation Section is comprised of nearly 3,000 lawyers whose practices are located in Los Angeles and the surrounding counties. We have reviewed and distributed for comment to our   | The committee noted the support of the Litigation Section of the Los Angeles County Bar Association for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | <b>Commentator</b>                                     | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|---|---|
|     |  |                 |                                    | <p>membership the proposed changes to various California Rules of Court and Standard 9 of the Standards of Judicial Administration.</p> <p>Please be advised that the Litigation Section supports the changes proposed by the Blue Ribbon Panel on the Fair and Efficient Administration of Civil Cases and urges the passage of those changes. Further, we are informed that the Los Angeles County Bar Association (“LACBA”) is also supporting the proposed changes and has further suggested certain modifications to the proposed changes. We have reviewed LACBA’s suggested modifications and concur in the suggested modifications.</p> |   |
| 19. | Mr. Justin D. Feldman<br>Yoka & Smith                  | A               | N                                  | No specific comment.  | The committee noted the commentator's support for the proposal. |
| 20. | Mr. T. James Fisher<br>Attorney<br>Redding, California | A               | N                                  | <p>I have read and carefully reviewed the current proposal to modify several important aspects of the delay reduction rules, as well as the grounds for continuances in California. I would like to wholeheartedly endorse these modifications and encourage the Judicial Council to take the necessary steps to implement them as soon as possible.</p> <p>I understand one of the concerns is that this is a "Southern California problem." As a sole practitioner in Northern California for the past 28 years, let me just say that this is simply not true. In my view, the</p>  | The committee noted the commentator's support for the proposal. |

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|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
|     |   |                 |                                    | proposed changes to the delay reduction rules, as well as the grounds for continuance, are common sense modifications that would bring some long overdue relief.  |   |
| 21. | Hon. David Flinn<br>Superior Court of California,<br>County of Contra Costa | A               | N                                  | Agreed with proposed changes (SP03-11), without specific comments.  | No response required.   |
| 22. | Mr. Todd Gall, Esq.<br>Young & Nichols<br>Bakersfield, California           | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances. | The committee noted the commentator's support for the proposal. |
| 23. | Mr. Robert Gerard, President<br>Orange County Bar Assoc.                    | A               | Y                                  | Agreed with proposed changes without specific comment.  | No response required.   |
| 24. | Mr. Steven P. Goldberg<br>Goldberg & Gille<br>Woodland Hills, California    | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances. | The committee noted the commentator's support for the proposal. |

**SP03-11**

**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 25. | Ms. Lydia D. Goldman<br>California State Auto Assn.<br>Santa Rosa, California | A        | N                           | <p>Excellent changes. I spend half my time in unnecessary status conferences, and do not get nearly enough time to prepare many of my cases for trial with the current stringent rules. Presently, many courts are more concerned with getting the original trial date set within a year, rather than looking at the practical realities of the case. I have many cases where my client is not served for 6-8 months because of various reasons. I then fact a trial setting conference two weeks later with a trial date set for 4 months from the time my client was served! This seems to address that issue in a thoughtful way. I hope there is a way to see that the court really takes</p>  | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | these issues into consideration once and if these changes are approved. I fear they will still be focused on the numbers.  |   |
| 26. | Mr. Ned Good<br>Attorney<br>Good, West & Schuetze<br>Pasadena, California | A        | N                           | <p>I am pleased to support the proposed changes to Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p> | The committee noted the commentator's support for the proposal. |

**SP03-11**

**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
| 27. | Dean B. Gordon<br>Law Offices of Dean B. Gordon<br>Fresno, California | A               | N                                  | <p>I support the proposed changes to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-11).</p> | The committee noted the commentator's support for the proposal. |
| 28. | Mr. Dale S. Gribow<br>Law Offices of Dale S. Gribow                   | A               | N                                  | I am pleased to support the proposed changes to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While   | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>   |
|-----|--|-----------------|------------------------------------|---|---|
|     | Palm Dessert, California   |                 |                                    | <p>Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 29. | Mr. Dennis C. Hyde<br>Wiegel & Fried, LLP<br>San Francisco, California | A               | N                                  | SP03-11 contains case disposition time standards for unlawful detainer cases in section 2.1(i) of the Standards of Judicial Administration: "The goals for unlawful detainer cases are: (1) 90 percent disposed of within 30 days after filing; and (2) 100 percent disposed of within 45 days of filing." These are realistic goals that are in keeping with the public's  | The Blue Ribbon Panel and the committee did not recommend changing these goals. |

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**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | reasonable expectations.   |   |
| 30. | Mr. Gabriel A. Jackson<br>Jackson & Wallace LLP<br>San Francisco County | AM       | Y                           | <p>Our firm is heavily involved in civil litigation in California, representing over 100 defendants in mostly product liability litigation. We have read with great interest the Blue Ribbon Panel's findings and proposed modifications to the rules involving trial setting (No. SP03-09), motions for continuance (No. SP03-10), the Trial Delay Reduction Act (No. SP03-11), and ethics training (No. SP03-12). As the Council requested comments on the suggested proposals, we write to advise you that our office and our clients are very much in support of all of the proposals. In addition, it is our belief that the proposed rule changes should apply to <i>all</i> civil litigation, including complex litigation, whether it be construction defect, mass torts, or toxic tort cases such as mold, tobacco, and asbestos. Perhaps the rules could be amended so that it is clear that <i>all</i> civil litigation would be covered by these changes.</p> <p>We thank you for your time and consideration of our comments.</p> | <p>The committee noted the commentator's support for the proposal.</p> <p>The extent to which general case management practices should be extended to complex cases is beyond the scope of the issues addressed by the Blue Ribbon Panel. The committee may consider this question in the future.</p> |
| 31. | Mr. Christopher A. Kall<br>Agnew & Brusavich<br>Torrance, California    | A        | N                           | <p>These amendments achieve their stated aim of providing "fair, practical, and flexible" rules to achieve the administration of justice. While providing a framework for the resolution of all cases, the rules also require the court to address the unique characteristics of each case in determining an</p>   | <p>The committee noted the commentator's support for the proposal.</p>  |

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**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response   |
|-----|--|----------|-----------------------------|--|--|
|     |  |          |                             | appropriate trial setting. These rules should keep the cases moving in an efficient speed towards resolution, while providing the court with the discretion to fashion alternative time frames where appropriate.  |  |
| 32. | Stephen B. R. Keller<br>Temporary Judge<br>Superior Court of California,<br>County of El Dorado<br>Placerville, California |          |                             | <p>This letter will comment on the proposed changes in CRC, rules 204, 208, and 209 and in CSJA sections 2 and 2.1 and repeal section 2.3. We agree with many of the proposed changes. These include: (1) Eliminating plans 1, 2, and 3 for trial setting; (2) managing a case to trial based on an individual review of the case; and (3) relaxing the time goals for disposition.</p> <p>We depart, however, from the apparent insistence on delay reduction as the only or, at least, the paramount goal of case management. Surely, delay reduction is important. But, it is not the only goal. Proper preparation of the case is also important. Indeed, in El Dorado County, we view good case management as balancing timely disposition and proper preparation. In this regard, our local rule 7.12.02(A) provides:</p> <p style="padding-left: 40px;">It is the policy of the Superior Court to manage all cases subjects these rules in order to insure proper preparation and timely disposition.</p> <p style="padding-left: 40px;">Cases can be managed to prepare for trial. Equally important, they can be managed to prepare for settlement.</p> | <p>The committee noted the commentator's support for many of the changes recommended in proposal SP03-11.</p> <p>Both the Blue Ribbon Panel and the committee have recognized the importance of other goals; indeed, the reason for many of the proposals is to provide greater flexibility in the application of the rules and standards.</p> |

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|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response  |
|--|-------------|----------|-----------------------------|--|---|
|  |             |          |                             | <p>Preparation for Trial – Trial preparation begins with the initial Case Management Conference, our local rule 7.12.09. The parties meet and confer, prepare Case Management Statements, and assist the court in preparing the case management plan, the goal of which is to insure that the parties prepare, without unnecessary delay, for disposition of the case.</p> <p>Trial preparation continues at the Mandatory Settlement Conference, local rule 7.12.10, at which we require the parties to identify lay and expert witnesses and exhibits and prepare jury instructions and general and special verdicts. We believe that requiring the parties to assemble their evidence and review the law at this point prepares them for trial.</p> <p>Finally, eight days before the trial at an Issues Conference (under local 7.12.11), we require the parties to prepare joint set of exhibits, tabbed and binderized, jury instructions, and general and special verdicts. We also require trial briefs setting forth (1) the legal and factual issues of the case, (2) the proposed sequence of trial and (3) legal points and authorities as appropriate. At the Issues Conference, the Court reviews the preparation of the parties. Such case management rules insure that the parties are prepared for trial.</p> <p>Preparation for Settlement – Cases should also be managed for settlement. Here, the focus is on what</p> | <p>The committee plans to consider the adoption of case management rules relating to the pretrial phase of proceedings next year. However, this area was outside the scope of the Blue Ribbon Panel's proposals and therefore was not addressed at this time.</p> |

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**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|  | Commentator | Position | Comment on behalf of group? | Comment   | Committee Response   |
|--|-------------|----------|-----------------------------|---|--|
|  |             |          |                             | <p>must be accomplished by the parties so that they will be in a position to settle their case. In our local rule 7.12.09E, we set forth case management rules for three kinds of cases to do just this, personal injury cases, construction cases, and partnership dissolution and accounting cases.</p> <p>Construction cases, for example, do not settle until the parties focus on the alleged defects and the cost of repair. So, in local rule 7.12.09 E(1), we require the party complaining of defects to serve on the other parties a Statement of Damages which includes a detailed Scope of Damages and a Cost of Repair. Thereafter, the other parties may inspect the premises and must serve a Response to Statement of Damages. Then, the parties are ready for dispute resolution. We have found that managing construction cases for settlement is highly successful.</p> <p>We believe that tempering the emphasis on delay reduction and recognizing preparation as a fundamental goal of case management could improve the proposed rules.</p> <p>The idea is simple. But no other court we know of does this. This idea is that the parties must accomplish certain investigations and discovery before they will be in a position to evaluate and then settle a case. Personal injury plaintiffs, for example, must assemble photographs of the accident, medical</p> | Next year, when the committee undertakes a comprehensive review of the case management rules, it can look more at the settlement issues raised by the commentator. |

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|  | Commentator | Position | Comment on behalf of group? | Comment   | Committee Response   |
|--|-------------|----------|-----------------------------|---|--|
|  |             |          |                             | <p>bills and reports, lost time statements, police reports, etc. Then, they can evaluate the case and make a demand for settlement. The defense must have access to this information and perhaps an IME and then it can evaluate the case and make an offer. But, why not have rules, which facilitate such preparation. And, why not have the case management judge thinking about what needs to be accomplished to resolve cases.</p> <p>Recommendations:<br/> <u>Rule 204.</u> Scope and purpose<br/> The rule needs work. The first sentence talks about construing and administering the rules.<br/> The second talks about applying them. What is the difference between administering and applying?<br/> Why not simply eliminate the second sentence?</p> <p>The comments on the proposal say that the rule is intended to provide direction. We are not sure it does; but, if the purpose is to provide direction, why not direct the case management judge to require proper preparation as well as a just, timely, and efficient disposition? We recommend:</p> <p><u>Rule 204.</u> The rules of this chapter are to be construed and applied to secure the proper preparation and the fair, timely, and efficient disposition of every civil case.</p> <p><u>Rule 208.</u> Delay reduction goals.</p> | <p>The committee disagreed. It concluded that this proposed new rule provides a proper statement of how the case management rules should be construed and applied.</p> |

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|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <p>This rule, with its fixation on delay reduction, is one-dimensional. Even Govt. Code, section 68607, referred to in subpart (a) of the rule, recognizing preparation; it says that judges have the responsibility to compel attorneys and litigants to prepare. But, CRC rule 208 also refers to the Standards of Judicial Administration and they don't recognize preparation. We recommend:</p> <p><u>Stds. Jud. Admin., § 2(a): Elimination of all unnecessary delays:</u></p> <p>Trial courts should be guided by the general principle that from the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, <u>necessary preparation</u>, and court events is unacceptable and should be eliminated.</p> <p>In conclusion, we would like case management judges to think not only about how to eliminate delays, but also about how to prepare the parties to settle or, if necessary, try cases.</p> | <p>As the commentator notes, rule 208 refers to Government Code section 68607. That section includes the time necessary for "preparation" in the time that is reasonably necessary for the disposition of cases without impermissible delay; hence, the word "preparation" should be added to section 2(a) of the standards, which refers to section 68607 of the Government Code.</p> <p>The committee agreed that the word "preparation" should be added to section 2(a) of the Standards to track and reflect the intent of Government Code section 68603.</p> |
| 33. | Mr. Howard D. Krepack and Mr. Gary N. Stern<br>Gordon, Edelstein, Krepack, Grant, Felton & Goldstein<br>Los Angeles, California | A        | Y                           | <p>We are pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the</p>   | <p>The committee noted the commentator's support for the proposal.</p>  |

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|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | <p>efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason we are pleased to support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 34. | Mr. William L. Larson, Esq.<br>Kiesel, Boucher & Larson<br>Beverly Hills, California | A        | N                           | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines  | The committee noted the commentator's support for the proposal. |

**SP03-11**

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|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <p>and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 35. | Ms. Diana Jessup Lee<br>Reicker, Pfau, Pyle, McRoy<br>& Herman LLP<br>Santa Barbara, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Motions and Applications for Continuance of Trial (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance, can in certain instances, result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track</p>                                 | The committee noted the commentator's support for the proposal. |

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**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|--|----------|-----------------------------|--|---|
|     |  |          |                             | <p>guidelines so that circumstances such as trial counsels' calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p>   |   |
| 36. | Ms. Laura Liccardo<br>Attorney<br>San Jose, California | A        | N                           | <p>Strict adherence to section 9 of the Judicial Administration Standards has been problematical. I witnessed a judge initially deny a motion to continue when the trial counsel's wife was undergoing her last round of chemo and he was responsible for their three children (she ultimately died). Trial lawyers are well aware of their responsibilities to their clients and the court, and are just as anxious to bring the case to resolution. Without some semblance of "flexibility" written into the rules, the judges will continue to treat lawyers as robots, forgetting that we are mere PEOPLE enduring life complications.</p> | The committee noted the commentator's support for the proposal.   |
| 37. | James Link<br>Pasadena, California                     | N        | N                           | <p>In my view, 75 percent in the first year is unrealistic if justice is to be done. There is far too much pressure on the courts to resolve cases within the guidelines rather than do justice. I have heard the lecture</p>  | The committee disagreed that a goal of disposing of 75 percent of unlimited civil cases with 12 months is unrealistic. In fiscal year 2000-2001, the actual |

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|  | Commentator | Position | Comment on behalf of group? | Comment   | Committee Response   |
|--|-------------|----------|-----------------------------|---|--|
|  |             |          |                             | <p>countless times the trial court judges that the case is too old and trial must be set, even though a last-minute amendment or cross-complaint changes the dynamics of the case.</p> <p>In one case, the court in my opinion did not give a plaintiff and her minor daughter sufficient time to find counsel after allowing the attorney to withdraw.</p> <p>In another case, the plaintiff wanted to appear for trial and asked for a continuance of the trial to the summer when she was out of school. Defendant stipulated to the continuance. The trial judge said no.</p> <p>I had one judge tell me in open court that he is subject to some kind of punishment if the cases are timely moved along. These are but a few of the stories.</p> <p>I would suggest 50% as the goal for one year. Such goal will allow justice to be done in a time fashion, yet giving the court and parties sufficient leeway for time and other constraints that delay the conclusion of actions.</p> <p>By the way, a proposal to change the expert designation and deposition time frames should be considered. The times should be moved back to avoid the last minute crunch that sometimes causes trial continuance.</p> | <p>disposition rate for these cases was 64 percent. Therefore, it is reasonable to set a 75 percent case disposition rate as a goal to be achieved.</p> <p>The committee disagreed with lowering the goal to 50 percent, which is significantly less than the average disposition rate already being achieved statewide by the courts.</p> <p>Additional proposals will be considered by the committee next year when it undertakes a comprehensive review of the case management rules.</p> |

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|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|---|---|
| 38. | Ms. Elizabeth Lopez<br>Attorney<br>Law Office of Elizabeth A. Lopez<br>[Mission Viejo] County | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (Item Nos. SP03-09, SP03-10, and SP03-11).</p> | The committee noted the commentator's support for the proposal. |
| 39. | Mr. Stephen V. Love   | AM              | N                                  | Concerning felony case disposition in Standards of  | The committee agreed that section 2.1(j)                        |

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|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     | Executive Officer<br>Superior Court of California,<br>County of San Diego |          |                             | Judicial Administration Section 2.1 (j), should the text be amended to clarify first <i>appearance</i> as <i>arraignment</i> , as follows: “[Felony cases—processing time goals] Except for capital cases, all felony cases disposed of should have a total elapsed processing time of no more than one year from first <i>arraignment appearance</i> in any court to disposition.”  | should be changed so that it is consistent with section 2.1(k). |
| 40. | Mr. John J. Machado<br>John J. Machado, Inc.<br>Modesto, California       | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel’s calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case</p> | The committee noted the commentator's support for the proposal. |

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**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response   |
|-----|---|----------|-----------------------------|--|--|
|     |   |          |                             | management in California.<br><br>I am pleased to support the proposed changes to the Rules of Court (SP03-11).   |  |
| 41. | Justice McConnell<br>Associate Justice<br>Court of Appeal, Fourth<br>District, Division One | AM       | N                           | <p>In 1987 the San Diego Superior Court became the first court in California to adopt civil delay reduction rules. The purpose of the program was to deal with the growing backlog of civil cases awaiting trial often three or four years from the date of filing. The plan was to implement a case management system that called upon the judiciary to take an increasingly more active role in monitoring a case from to end. The purpose was to provide to the public a forum for resolution of disputes that was reasonably prompt. To that end, the Superior Court adopted goals and timelines for resolution of civil cases that had been proposed by the American Bar Association.</p> <p>The success of the program is well known. While at first the change was painful for both the bench and bar because it required a complete change in the management of the pace of civil litigation, the bar and bench soon adapted. The expectation is now that a civil lawsuit will be resolved expeditiously unless there are circumstances that preclude that. I hope we do not lose sight of the importance of speedy resolution to the public we serve.</p> <p>The proposals from the Judicial Council by and large</p> | <p>The committee considered Justice McConnell's comments on the history of trial delay reduction.</p> <p>The committee believes that the amendments to the rules and standards will continue to promote the efficient resolution of cases.</p> |

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|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response  |
|--|-------------|----------|-----------------------------|--|---|
|  |             |          |                             | <p>do not detract from the program but a few observations seem appropriate.</p> <p>[Justice McConnell's comments on the amendments to rule 212 are contained in the chart on proposal SP03-09.]</p> <p>As to the proposed revisions of the time disposition standards, my primary concern is that by lowering the standards, we will lose our momentum. Keep in mind that we have never achieved the ABA standards. The report indicates only 64 % of all unlimited civil cases are resolved within 12 months. Obviously the judges and lawyers are not suffering under a mandate to seek resolution of 90% of these cases within that time frame. Keeping the guidelines as they are I think is important since while we may not achieve our goal, our aim is high. If we lower the goal, will we then resolve only 50% of our cases within 12 months? Oddly enough, I think that is a possibility. And the reality is that a complex civil case is not subject to the standards; most of the civil cases are simple personal injury cases and if they are not they will have two years for resolution--or more if there are exceptional circumstances.</p> | <p>[The committee's responses to Justice McConnell's comments on rule 212 are contained in the chart on proposal SP03-09.]</p> <p>While the committee recognizes the continuing importance of disposing of cases in a timely manner, it also acknowledges the legitimate concern of the members of the Blue Ribbon Panel and the commentators who expressed the view that some of the existing time standard for unlimited cases (i.e., 90 percent disposition within 12 months) is sometimes being used to set some unlimited civil cases for trial earlier than the facts of the case may warrant.</p> <p>To balance the goal of timely disposition of unlimited civil cases in general with the importance of insuring that each individual unlimited civil case is set for trial at a time appropriate under its facts, it makes sense to modify rule 209 and section 2.1 of the Standards to be a little less demanding and more flexible for the first 12 months after filing. The committee therefore supports</p> |

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|  | Commentator | Position | Comment on behalf of group? | Comment   | Committee Response   |
|--|-------------|----------|-----------------------------|---|--|
|  |             |          |                             | <p>The guidelines for "removal from control" are a good idea and should provide assistance to both bench and bar.</p> <p>Overall I was relieved to see the actual proposals were not exactly as portrayed in the press. Thank you for the opportunity to comment.</p> | <p>the recommendation of the Blue Ribbon Panel to replace the goal of 90 percent disposition rate of unlimited civil cases within one year with a 75 percent rate.</p> <p>The panel and the committee both recommended retaining the goal of disposing all these cases within 24 months. The modified goal of 75 percent would apply only to unlimited civil cases; the rate for limited cases would remain 90 percent within the first 12 months. Because the 75 percent goal for unlimited civil cases is still above the actual disposition rate in 2001–2002 of 64 percent, trial courts will still be motivated to improve their rates of case time disposition. But they will not be pressured to set virtually all such cases for trial within 12 months, which many commentators indicate is a problem under the current case time disposition standards.</p> <p>The committee agreed.</p> |

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|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>  |
|-----|--|-----------------|------------------------------------|---|--|
|     |  |                 |                                    |   |  |
| 42. | Mr. Raymond J. McMahon<br>Law Offices of Bonne,<br>Bridges, Mueller, O'Keefe &<br>Nichols<br>Santa Ana, California | A               | N                                  | <p>Thank you for the opportunity to accept comments on SP03-09, SP03-10, and SP03-11. I strongly support the proposed changes to these Rules of Court. As a trial attorney, it has been increasingly difficult to perform in a professional manner with the unreasonable time restraints placed upon attorneys by the bench. As currently set up, the rules limit and/or prevent routine civil courtesies which should not be abandoned. The parties are often forced into incurring unnecessary costs and wasting resources because they must comply with arbitrary time deadlines.</p> <p>I urge the council to promote cooperation between the bench and bar as opposed to permitting an arbitrary, adversarial process. All parties involved would benefit by the change in the proposed rules.</p> | The committee noted the commentator's support for the proposal.                    |
| 43. | Kevin McNaughton<br>Schaffer, Lax, McNaughton<br>& Chen<br>Los Angeles, California                                 | A               | N                                  | <p>Eliminating the practice of automatically assigning civil cases for disposition within 12 months and requiring that most civil cases be assigned for case management review under Rule 212 is a very good idea. It reduces arbitrary and unfair outcomes and promotes individual consideration of each case in a streamlined and non-burdensome manner for the courts. If adopted, similar cases will be handled in a more consistent manner thereby increasing the perception and reality that similarly situated parties</p>   | The committee agreed with the Blue Ribbon Panel and the commentator on this point. |

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|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | and cases are being treated individually and consistently.   |   |
| 44. | Ms. Robin Meadow<br>President<br>Los Angeles County Bar Association<br>Los Angeles County | AM       | Y                           | <p>The report of our Task Force on Continuances, which our Board of Trustees unanimously adopted on August 27, 2003, including its suggested modifications to the recommendations of the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases (Judicial Council proposals SP03-09, SP03-10, AND SP03-11), constitute our response to the invitation for public comment on these special cycle proposals.</p> <p>Our Litigation Section also unanimously endorses the report of the Task Force on Continuances, and it expects to submit its separate letter of endorsement to the Judicial Council.</p> <p>Our Board's representative from the Beverly Hills Bar Association, Cynthia Pasternak, has asked us to include this statement on behalf of BHBA: "As the representative of the Beverly Hills Bar Association to the Los Angeles County Bar Association's Board of Trustees and on behalf of BHBA, I ask you to advise the Judicial Council that BHBA supports in principle the Blue Ribbon Panel Recommendations. However, because of the September 12th comment deadline, we are unable to fully evaluate LACBA's additional suggestions, and we therefore cannot endorse them at this time."</p> | The committee considered the report. [The report states: "On August 27, 2003, the Board voted unanimously in favor of the Task Force's opinion that LACBA strongly endorse and urge the Judicial Council to approve the proposed changes."] |

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|     | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | We appreciate the time, research, and effort of the Blue Ribbon Panel that resulted in the development of the proposed recommendations. Thank you for the opportunity to comment.   |   |
| 45. | Mr. Neal S. Meyers<br>Daley and Heft<br>Solano Beach, California                    | A        | N                           | I am in favor of adding flexibility to the setting and necessary continuance of trial dates. As a trial lawyer, I have sent the value of the delay reduction rules moving cases along. However, there are also occasions when forcing a case into a timeframe just to meet time statistics has caused unfair and unjust results. I support these changes.   | The committee noted the commentator's support for the proposal. |
| 46. | Ms. Lisa Mitts Patrick<br>Law Office of Lisa Mitts Patrick<br>Fullerton, California |          |                             | <p>I am pleased to have an opportunity to comment on the proposed changes . . . .</p> <p>For now, without expedited discovery, and without good ADR procedures before trial, trial within one year and without a reasonable approach to needed continuances is wholly unrealistic, and unfair to all litigants . . . .</p> <p>With regard to the disposal of cases within the time frames listed, I am quite hopeful that, with the extension of the statute of limitations to two years, many cases that have been “sucked” into the litigation system by virtue of an expiring statute of limitations will not even be placed in litigation until the parties are fully and completely ready to go forward and that</p> | The committee noted the commentator's support for the proposal. |

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|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response   |
|-----|---|----------|-----------------------------|--|--|
|     |   |          |                             | <p>these standards will be more likely met as is or as proposed to be modified.</p> <p>However, these alterations to the Fast Track rules as I understand them are needed and well deserved for the parties that are utilizing the civil system to solve their disputes. By resorting to the courts in a calm and professional manner (and ideally more economically than we can now), this will keep the public from trying (or wanting) to take matters into their own hands. I think it is critical that the public understand our judicial system is here to provide a forum to help all parties with their civil disputes, and not to make going to the courts so prohibitive that they do not.</p> |  |
| 47. | Hon. Dennis E. Murray<br>Presiding Judge<br>Superior Court of California,<br>County of Tehama | A        | N                           | It is good to see the changes in the time limits for civil case time disposition goals. The original time limits were never very realistic.  | The committee agreed with the panel and the commentator that the case time disposition goals for unlimited civil cases should be modified. |
| 48. | Hon. Wayne L. Peterson<br>Judge<br>Superior Court of California,<br>County of San Diego       | AM       | Y                           | <p>I am responding on behalf of the civil division judges of the San Diego Superior Court with respect to the proposed changes to the rules of case management.</p> <p>To begin with, we adopt the views expressed in the [comment] from Justice McConnell. (See Comment 41.)</p> <p>San Diego has a lengthy and successful history in effective civil case management and we offer the</p>  |  |

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|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | <p>following comments based on that experience.</p> <p>[For specific comments on SP03-09 and SP03-10, see the charts on those proposals.]</p> <p>We do not know of any county in the state that achieves the current recommended completion percentage of our current delay reduction program. Therefore, changing the criteria to require only 75 percent of cases to be completed within one year probably adds nothing to the mix. That said, Justice McConnell's comments on this issue are supported by the San Diego bench.</p> <p>We hope these comments are of assistance to the Blue Ribbon Panel.</p> | <p>[For the committee's responses to the comments on SP03-09 and SP03-10, see the charts on those proposals.]</p> <p>The committee agreed with the Blue Ribbon Panel that reducing the goal for case time disposition of all unlimited civil cases the 75 percent within 1 year would be more realistic, would reduce the pressure to assign all such cases to trial within a year, and still provide a goal that will encourage the timely disposition of cases.</p> |
| 49. | Hon. Alan Pineschi<br>Presiding Judge<br>Superior Court of California,<br>County of Placer<br>Auburn, California | AM       | N                           | <p>With respect to the proposed revisions to Standards of Judicial Administration 2.1(1) [felony preliminary examinations], I would like the goals to be modified as follows:</p> <p>90 percent of cases disposed of within 45 days<br/>98 percent of disposed of within 60 days<br/>100 percent of disposed of within 120 days.</p> <p>Because of significant sentencing issues raised by the 3-Strikes Law and other sentencing and enhancement laws, additional time is necessary to conference prior</p>  | This proposal is outside of the scope of the Blue Ribbon Panel's proposals. The comment is referred to the Criminal Law Advisory Committee.   |

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|     | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|---|-----------------|------------------------------------|--|---|
|     |   |                 |                                    | <p>to the preliminary examinations. This additional time would allow more cases to possible resolve prior to the preliminary examination as it would give defendants more time to fully consider the consequences of a plea bargain.</p> <p>Additionally, there are often discovery problems, which require more time in advance of the preliminary examination to properly evaluate the case from all points of view – the District Attorney, the defense, and the Court.</p> |   |
| 50. | Ms. Karen Reak<br>Attorney<br>Ballard, Rosenberg, Golper and Savitt<br>Universal City, California | A               | N                                  | No specific comment.   | No response required.   |
| 51. | Mr. Leonard Sacks<br>Attorney at Law  | A               | N                                  | Agreed with proposed changes.  | The committee noted the commentator's support for the proposal. |
| 52. | Steven Sadd<br>Santa Monica, California   | A               | N                                  | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-11).</p> <p>While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p>                          | The committee noted the commentator's support for the proposal. |

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|     | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | <p>Rigid adherence to deadline and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Tract guidelines is meritorious' however the strategic addition of a degree of flexibility as reflected in the proposed rule changes better ensure fair and efficient case management in California.</p> <p>For this reason I am leased to support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 53. | Mr. Steven L. Saldo<br>Law Offices of Steven L. Saldo<br>San Luis Obispo County | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a</p>  | The committee noted the commentator's support for the proposal. |

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|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <p>continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p>  |   |
| 54. | Mr. Robert S. Schlifkin<br>Law Offices of Robert S. Schlifkin<br>Los Angeles County | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast</p> | The committee noted the commentator's support for the proposal. |

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|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|--|---|
|     |  |                 |                                    | <p>Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p>  |   |
| 55. | Mr. Karl W. Schoth<br>Attorney, ABOTA member<br>Law Offices of Schoth,<br>Creyaufmiller & Associates<br>Glendora, California | A               | N                                  | <p>I support the proposed changes. There really is a need to allow for more flexibility in the deadlines and in the granting of continuances, particularly for scheduling multiple expert witnesses.</p> <p>I have been practicing law for 19 years and tried many cases to verdict. Greater flexibility for trial scheduling will work to the benefit of all involved. I ask the Judicial Council to adopt and implement the proposed changes to SP03-09, -10, and -11 as soon as possible.</p> | The committee noted the commentator's support for the proposal. |
| 56. | Mr. Steven Schuetze  | A               | N                                  | I am pleased to sending this letter in support of the proposed changes to the Rules of Court applying to Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the  | The committee noted the commentator's support for the proposal. |

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**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator   | Position | Comment on behalf of group? | Comment  | Committee Response  |
|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | <p>application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice it litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsels legitimate calendar conflicts or the facts that the nature and extent of plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of a degree of flexibility, as reflected in the proposed rule changes, would better ensure fair and efficient case management in California.</p> <p>For this reason, I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 57. | Mr. Michael V. Severo<br>Law Offices of Michael V. Severo<br>Los Angeles County | A        | Y                           | <p>Please accept this letter as our expression of support for the proposed changes to the Rules of Court, Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11).</p> <p>Unquestionably, Fast Track case management has been successful in preventing unnecessary trial delays and has thus resulted in the efficient administration of</p>   | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | <p>our courts. However, in ensuring that effective administration of the system does not conflict with the parties' rights to a fair trial and the full presentation of all relevant evidence on all issues, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>An arbitrary adherence to deadlines and the refusal to grant continuances can in many instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts, and the complexities of the case (such as the nature and the extent plaintiff's injuries) might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the strategic addition of a degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management, as well as fair trials for all participants.</p> <p>For those reasons I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 58. | Ms. Sarah Shena Bourdette & Partners<br>Visalia, California | A        | N                           | I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case   | The committee noted the commentator's support for the proposal. |

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**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | <p>management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p> |   |
| 59. | <p>Hon. W. Scott Snowden<br/>Presiding Judge<br/>Superior Court of California,<br/>County of Napa*</p> <p><i>*on behalf of the Judges of the Superior Court of Napa County, including:</i></p> | AM       | Y                           | <p>The judicial officers and the executive officer of the Napa Superior Court appreciate the opportunity to comment on the various proposals made following the work of the Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases. Most of the proposals are well considered and will achieve significant improvements in the civil court system. We are writing to address only one: the proposal to relax case flow management standards for unlimited</p>   | <p>The committee noted the Napa Superior Court's support for most of the Blue Ribbon Panel's proposals.</p> |

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**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|  | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response   |
|--|--|----------|-----------------------------|---|--|
|  | <ul style="list-style-type: none"> <li>• Judge W. Scott Snowden, Presiding Judge</li> <li>• Judge Richard A. Bennett, Assistant Presiding Judge</li> <li>• Judge Ronald T. L. Young</li> <li>• Judge Francisca P. Tisher</li> <li>• Judge Stephen T. Kroyer</li> <li>• Judge Raymond A. Guadagni</li> <li>• Commissioner Michael S. Williams</li> <li>• Commissioner Kelly M. Boyd</li> <li>• Stephen A. Bouch, Court Executive Officer</li> </ul> |          |                             | <p>jurisdiction civil cases. For a number of reasons, we believe that this change would not be in the interest of the court system or the litigants it serves.</p> <p>We have three major areas of concern which we will discuss in turn.</p> <p><b>1. The “90% / 12 month” standard has been accepted for decades in California and nationwide.</b></p> <p>The first reason that we oppose the proposal is that the “90% in 12 months” standard has enjoyed many years of acceptance both by courts and scholars in California and nationwide. In the mid-1980’s, the “delay reduction” effort was inaugurated in California by the legislature and embraced by the Judicial Council. After a period of extensive consideration and careful thought, the Council adopted case flow disposition standards, including--perhaps most importantly--the standard that 90 % of civil actions should be disposed of within 12 months of filing. This figure was not simply picked out of the air; rather, it was the standard approved by the American Bar Association in 1984 when it adopted Court Delay Reduction Standards (specifically Standard 2.52). Today, nearly two decades later, the ABA still holds to the 90% / 12 month standard. Furthermore, as of 1994, 33 states had adopted civil case disposition standards, nine of which were identical or very close</p> | <p>The committee does not agree with this objection. First, in 2003, only 4 states and the District of Columbia are using the ABA civil standards. (Dodge R. Rankey, <i>Case Processing Time Standards in State Courts</i>, 2002–2003 (NCSC) p. 4.) States are constantly reviewing and modifying their standards. Second, the "90 percent in 12 months" is only one element of the ABA Standards. Most of the other elements of the ABA Standards would be retained in the amended standards, including the goal of disposing of 100 percent of unlimited civil cases within 24 months. Third, based on experience, data, and changes in the law in California since 1991, there are valid reasons why the 90 percent disposition rate for unlimited civil cases is proving</p> |

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**Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response   |
|--|-------------|----------|-----------------------------|--|--|
|  |             |          |                             | <p>to the ABA standards, according to David C. Steelman in <i>Case flow Management: The Heart of Court Management in the New Millennium</i> (National Center for State Courts, 2000, page 109, a copy of which has been sent to each member of the Council). The standard has thus become a widely accepted policy statement of what courts can and should achieve for the litigants they serve. Moreover, many California courts have successfully adhered to the standard and made it a part of their legal culture.</p> <p>A standard of this sort should not be lightly set aside.</p> <p><b>2. The modification of the “90% / 12 month” standard will not solve the problems that gave rise to the proposed change.</b></p> <p>The basis for the Blue Ribbon Panel’s proposal is stated in the Invitation to Comment as follows:</p> <p>“Panel members believed that some trial courts, in their efforts to achieve the 90 percent disposition rate set out in section 2.1 of the standards, were setting too many unlimited civil cases for trial within one year after filing. This practice, especially when combined with</p> | <p>unrealistic and causing practical problems. Thus, it is justifiable to change that element.</p> <p>While the ABA standards provide a useful benchmark, they do not need to be followed uncritically in every situation if California's civil case management experience indicates that a modified standard is preferable. The revised standards for disposition in the first 12 and 18 months are realistic and would continue to provide meaningful case disposition time goals for the trial courts. The existing standards are not lightly set aside, but also should not be rigidly adhered to. They are overall goals for case disposition times, not rules of procedure or statutory deadlines.</p> <p>The Blue Ribbon Panel has identified a problem that should be addressed by the amendments to rule 209 and section 2.1 of the standards. "While final responsibility for development and operation rests with the court, the bar should be an active participant in development and evaluation of the caseflow system." (M. Solomon and</p> |

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|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response   |
|--|-------------|----------|-----------------------------|--|--|
|  |             |          |                             | <p>the reluctance of some courts to grant continuances, was causing real difficulties for attorneys and their clients.”</p> <p>Preliminarily, it should be noted that these conclusions are based upon anecdotal information. There has been no comprehensive evaluation of the state of the art of case flow management in the courts of California. Should such a survey occur, it would reveal that many courts routinely achieve the existing disposition standards without being unfair to either attorneys or litigants. A “belief” that “some” courts are doing a poor, ineffective, or even oppressive job of administering their caseload should be carefully investigated before using it as a basis to weaken a standard that benefits many litigants statewide.</p> <p>Substantively speaking, the contention that some courts set too many cases for trial within one year is troublesome. To suggest that extending the time from filing to disposition--even for 15% of cases--will have any effect upon oversetting is to misunderstand the fundamental dynamics of the flow of cases.</p> | <p>D.K. Somerlot, <i>Caseflow Management in the Trial Court</i> (ABA, 1987, p. 7.) The observations of the attorneys on the Blue Ribbon Panel were supported by the numerous commentators on this and other proposals. The data collected by the Judicial Council also indicates that in 2001–2002, after more than 10 years of trial delay reduction, 65 percent of unlimited cases were disposed of within 12 months; thus, a goal of disposing of 75 percent within 12 months is more realistic for most courts than 90 percent and still provides an incentive to improve performance.</p> <p>The amendments do not "extend the time from filing to disposition," but rather modify the <i>goals</i> for the overall rate of disposition of unlimited civil cases during the periods from filing to 75 percent within 12 months and 85 percent within 18 months. (The goal of 100 percent disposition by 24 months remains the same as under the current ABA Standards.) As Solomon and Somerlot state: "It is important to distinguish between time standards developed and used as a</p> |

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|  |             |          |                             | <p>A court is a closed system. A fixed number of cases are filed by litigants and those cases remain open in the court until disposed of by settlement, summary disposition, dismissal or trial. Every filed case must either be set for trial or resolved before being set. Different courts have different practices as to when trial setting will occur during the life of the case. Some courts set a trial date at the time of the filing of the first pleading; in such courts, nearly every pending case has a trial date. Others set cases on the trial docket only when every effort at an alternative disposition has been exhausted; in such courts only those cases that are essentially certain to go to trial have trial dates. Many courts fall between these extremes, setting cases for trial after some efforts at early disposition have been undertaken, but undertaking other efforts between setting and trial.</p> <p>All of these approaches can be successful with proper management; all can fail without it. But there is no reason whatever to believe that extending the time from filing to disposition will have any effect whatever on the success or fairness of the process. Only skilled management can do that.</p> | <p>management tool and time restrictions specified in procedural rules and statutes." (<i>Id.</i>, p. 15.) Modifying the goals may lead to better case management practices for unlimited civil cases.</p> <p>The proposed amendment of section 2.1 is part of an overall reform and improvement of the case management process. The rules adopted in 2002 were intended to insure that proper case management review takes place no later than 180 days after filing and to improve the process. The Blue Ribbon Panel's proposals are consistent with this approach and seek to insure that each unlimited civil case receives the case management appropriate to it. Setting trial dates at the time of filing, without review of the case, is inconsistent with the new case management rules adopted by the Judicial Council in 2002. This was one of the main concerns of the Blue Ribbon Panel.</p> <p>The committee disagreed. Again, the proposal modifies <i>goals</i>; it does not "extend the time." The committee believes that adopting the proposed rules and overall standards for civil case disposition will improve the case management process and</p> |

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|--|-------------|----------|-----------------------------|--|--|
|  |             |          |                             | <p>It is difficult to divine what the Panel had in mind when it opined that in some courts “too many ... cases ... (are being set) for trial within one year”. It would appear that this can refer to one of three potential problems, none of which will be ameliorated by extending the period for disposition to 18 months.</p> <p>First, it might mean that 25% (rather than 10%) of the cases in the state courts involve complexity requiring a longer period for fair disposition. However, there is no basis whatever for such a contention. There is no support for it in the literature of case flow management. Moreover, the ABA continues to endorse the 90% / 12-month standard, and the experience of the successful delay reduction courts of California has proven the standard appropriate.</p> <p>Second, the Panel might have meant that some courts are setting more cases than they will be able to accommodate at trial because they will not effect enough settlements. Certainly, a full and concerted effort to facilitate the resolution of cases is a necessary component of a properly managed caseload. However, if a vigorous settlement effort is absent in a court seeking to resolve 90% of cases within 12 months, there is no reason to believe that reducing the standard to 75% will improve the situation. A court which is ineffective in resolving cases within one year will be just as ineffective in resolving them within a</p> | <p>make it fairer and more efficient.</p> <p>Commentators identified a number of specific legal developments that are requiring longer time for the fair disposition of civil cases, including the longer notice period for summary judgment motions and the increased time lines for completing discovery in eminent domain proceedings.</p> <p>The panel and the committee continue to support and encourage the holding of case management conferences and settlement conferences to assist in resolving cases. Their concern about the current 90 percent case disposition standard is that it is sometimes applied arbitrarily to set some unlimited cases for trial before the parties in the cases are sufficiently prepared. The reform of the case management rules is intended to encourage all courts to better</p> |

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|--|-------------|----------|-----------------------------|--|--|
|  |             |          |                             | <p>year and a half, if not, indeed, more ineffective. The only effect on the disposition rate will be that for the first six months after the standard changes, dispositions will drop while the backlog of indisposed cases builds up.</p> <p>Finally, the setting of “too many...cases” could mean that, although a court makes every reasonable effort to facilitate resolutions, there are more cases scheduled than it can try. In other words, the Panel could be saying that there are courts with well-managed calendars that settle, or dispose without trial, all cases they can be expected to, but which still have more trials than they can handle. A change in time standards will do nothing to help this situation, because, simply stated, this is an overloaded court. Changing the time standard will not change the fact that such courts need another kind of help: additional courtrooms.</p> <p>The panel goes on to note a different problem, analytically unrelated to oversetting. They refer to “...the reluctance of some courts to grant continuances...”. As virtually every treatise stresses, control of continuances is central to effective case flow management (see, e.g. <i>ibid.</i> at pages 13 et seq., and 115 et seq.). It is also one of the most sensitive and difficult aspects of a delay reduction system. In this regard, we should make clear that we know that there are plenty of “horror stories” out there. Indeed</p> | <p>manage their caseloads, giving proper attention to each individual case. The revised standards in section 2.1 will continue to provide goals for courts to achieve.</p> <p>The comment is correct that the amendments to rule 209 and the standards will not resolve all case management problems, including the availability of court rooms. These measures must be combined with others to improve overall case management.</p> <p>The problem of the reluctance of some courts to grant continuances in appropriate circumstances is primarily the subject of the separate proposal to amend rule 375 and repeal section 9 of the Standards. But to the extent courts feel pressured by the current time standards to set all or most unlimited civil cases for trial within a year, these standards may be resulting in the</p> |

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|--|-------------|----------|-----------------------------|--|--|
|  |             |          |                             | <p>we suspect that it is such stories that brought about this proposal. We hear the stories too. For example, a lawyer recently told us of a judge in a nearby metropolitan county who ruled that an attorney's kidney transplant two weeks before trial was not good cause for a continuance! There are definitely problems out there, but lengthening the time to disposition in civil cases will not eliminate or even reduce arbitrary, unfair decisions. Only education and training (about which we will have more to say), appeals and (in the most extreme situations) discipline can do that.</p> <p><b>3. This is the time to strengthen, not weaken, case management in California.</b></p> <p>To this extent we agree with the Panel: delay reduction in California needs fixing. We disagree, however, about what needs to be done. We feel that it is time to re-invigorate the vision of delay reduction and re-educate the courts on its effective administration.</p> <p>It has been more than a decade since the Council or AOC made any sort of concerted effort to educate and train judges and administrators in the principles and practicalities of case flow management. Even when training programs and consultative assistance were being made available in the 1980's, they were prematurely curtailed and ultimately terminated for budgetary reasons. Today, it is doubtful if half the</p> | <p>undue denial of continuances. Thus, by modifying the standards, courts may be more flexible and inclined (1) to set trial dates beyond one year, and (2) grant continuances in appropriate cases.</p> <p>The panel, the committee, and the court all agree that case management in California should be strengthened at this time, not weakened. They also agree on the importance of education and training. Indeed, the need for such education and training was one of the primary recommendations of the Blue Ribbon Panel in its July 2003 report to the Judicial Council.</p> |

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|--|-------------|----------|-----------------------------|---|---|
|  |             |          |                             | <p>sitting judges were even on the bench the last time an educational effort was underway, and the number who have actually had such training is undoubtedly miniscule.</p> <p>In a time of unprecedented fiscal stress, there is probably no tool available to the court system that can stretch our limited resources more effectively than good case flow management. And its many efficiencies are in reality a collateral effect to the overriding benefit of delay reduction. As has been stated by one of the pioneers of the field, Professor Ernest C. Friesen:</p> <p>“The study of delay is not the study of inefficiency, but is the study of the very purposes for which courts exist.... Justice is lost with the passage of time.... No matter how you look at it, whether it’s a civil or a criminal matter, time destroys the purposes of courts. (<i>ibid.</i> at p. xviii.)</p> <p>The fact of the matter is that delay reduction can be accomplished with spectacular results without incurring the enmity of attorneys or litigants. We urge that, instead of weakening its commitment to effective case flow management, the Council strengthen it.</p> <p>There are many ways the Council can strengthen its commitment to effective case flow management. One way would be to send teams of trainers to every court</p> | <p>It is true that updated training for new judges and staff is desirable.</p> <p>There is a need for improvement not only caseload management, but also case management by judicial officers.</p> <p>The committee agrees that—working with attorneys and litigants as well as judges and the courts—case management and caseload management should be strengthened.</p> |

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|  |             |          |                             | <p>to teach the theory and, more importantly, the practicalities of managing case flow. Each such team should include an academic, an administrator and one or more judges who have successfully run delay reduction programs. These teams should make comparatively detailed initial presentations, and should return periodically to provide insights and suggestions on an ongoing basis, and to assist in the training of newly arriving judges and administrators.</p> <p>We hope you will inaugurate such a training initiative. If you do, and if it would be of help, the Napa Superior Court would be honored to volunteer both administrators and judges to participate. We began caseload management as a volunteer delay reduction court in the 1980's and have continuously and successfully operated the program since then. For 16 years running, we have exceeded the existing time standards, disposing of significantly more than 90% of civil actions within 12 months of filing. We have done it while disposing of our share of major, complex cases. We have done it while accepting a number of major venue-change criminal actions. We frequently have civil actions brought to Napa on change of venue by litigants attracted by the near certainty of trials going out at the first setting. And we have done this (we believe and hope) without any of the "horror stories" that have engendered the proposed change.</p> | <p>In 2002, members of the Civil and Small Claims Advisory Committee held workshops and participated in judicial education programs around the state on the newly adopted case management rules. The need for judicial and administrative education and training on case management is continuous and should be encouraged.</p> |

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|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | <p>For the Council to weaken the time standards for case disposition would send an unintended message. It would be a snub to the many courts which took to heart the mandate they received in the 1980's. These are courts that embraced the vision of a better civil litigation process, whose judges and administrators took terrific political risks to create new local legal cultures, and that have successfully implemented programs dramatically reducing the time that litigants have had to wait for resolution of disputes.</p> <p>We hope that you will choose not to weaken the time standards but instead will choose to strengthen one of the most potent tools available to the courts to meet the challenges of these difficult times.</p> | <p>The committee does not regard the Blue Ribbon Panel's proposals as weakening the case management process, but rather as improving it to be more flexible and focused on the needs of each individual case. The efficient as well as fair disposition of cases should continue to be a major goals of the Judicial Council.</p> |
| 60. | Mr. Daniel A. Stenson<br>Law Offices of John E. Hill<br>Oakland, California | A        | N                           | <p>I am pleased to support the proposed changes to Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a</p>                 | <p>The committee noted the commentator's support for the proposal.</p>  |

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|     |   |          |                             | <p>reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p>   |   |
| 61. | Mr. Daniel J. Sullivan<br>Law Offices of Daniel J. Sullivan<br>Sacramento, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into</p> | The committee noted the commentator's support for the proposal. |

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|     | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | <p>consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>I am pleased to support the proposed changes to the Rules of Court (SP03-11).</p>  |   |
| 62. | Mr. Don C. Sutton<br>Law Office of Don C. Sutton<br>Modesto, California | A        | N                           | <p>I am in support the proposed changes to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair</p> | The committee noted the commentator's support for the proposal. |

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|     | Commentator   | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|---|----------|-----------------------------|---|---|
|     |   |          |                             | and efficient case management in California.<br><br>For this reason I support the proposed changes to the Rules of Court (SP03-11).   |   |
| 63. | Ms. Vivienne A. Swanigan<br>Deputy City Attorney<br>Los Angeles, California | A        | N                           | The changes are extremely important because they will call attention to those matters that, while not apparent on the face of the complaint, require extensive discovery, have major defendants who are not served, or other circumstances under which it is difficult or impossible to resolve a case within 12 months and, instead, should be set for 18 or 24 months resolution.   | The committee noted the commentator's support for the proposal. |
| 64. | Mr. Robert M. Tessier<br>Calabasis, California                              | A        | N                           | No specific comment.  | No response required.   |
| 65. | Ms. Nikke Tolt<br>Attorney<br>Beverly Hills, California                     | A        | N                           | I have recently reviewed the proposed changes to the Rules of Court applying to trial court and civil case management (SP03-09), motions and applications for continuance of trial (SP03-10), and trial delay reduction and case disposition time standards (SP03-11). The changes are clearly an adjunct to the Fast Track Case Management Rules , which, although having made an important contribution to the efficiency of our courts and the prevention of unnecessary trial delays, has also, in certain instances, caused undue hardships to certain litigants due to the lack of flexibility in the application of the deadlines and in granting of continuances. | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | As a solo practitioner, the proposed changes are particularly welcome, as conflicts often arise during the course of a practice that is focused on trial work. It is important for the trial judges to understand that they have latitude in administrating Fast Track guidelines so that individual circumstances may be taken into consideration for the best interests of the litigants. Although the overall purpose of Fast Track guidelines is meritorious, the changes are welcomed, and we appreciate your efforts in this regard. For this reason, I am pleased to support the proposed changes to the Rules of Court, as indicated above. |   |
| 66. | Ms. Victoria E. Townsend<br>MacMorris & Carbone<br>San Francisco, California | A        | N                           | With the respect to SP03-11, one significant downside to existing Fast Tract rules for defendants is the assignment of an initial trial date in compliance with Fast Tract rules where plaintiff has not been compliant with the Fast Track service requirements and does not serve defendant with the summons and complaint for several months or more after the complaint is filed. That often results in defendants facing a trial date just a few months after they have answered, with insufficient time to conduct full discovery.  | The committee noted the commentator's support for the proposal. |
| 67. | Hon. Gary Tranbarger<br>Superior Court of California,<br>County of Riverside | N        | N                           | Before commenting on the proposed changes to the Judicial Council's fast-track goals, I would like to state my background. I took the bench in January 1994 after a 16-year career as a prosecutor. I never practiced civil litigation, so I have no memory of what   | The committee considered Judge Tranbarger's comments.           |

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|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response |
|--|-------------|----------|-----------------------------|--|--------------------|
|  |             |          |                             | <p>things were like in the age before "fast-track."</p> <p>In June 1996, I began a general civil assignment handling a calendar of both limited and unlimited matters that were assigned to me for all purposes on the day of filing. After 7 years, I still have the same assignment. Roughly 250-280 cases are assigned to my department every 90 days. I usually have 1000 to 1200 cases active at any one time. (None of my statistics distinguish between limited and unlimited cases; nor do my case management practices.)</p> <p>In the last 7 years, I have never been shown any statistics regarding how I am doing in meeting fast-track goals. I have no idea what percentage of my cases is closed by 12 months, or 18 months. I am aware that I generally have about 20 to 30 cases that are older than 24 months, with generally less than 10 that are older than 36 months. (I do not know the limited/unlimited breakdown of these numbers.) I have never sanctioned any attorney for non-or-late service if they bother to appear at the OSC. I routinely set the arbitration completion date 120 to 150 days out from the date the case is sent to arbitration. I have never denied a request to continue the arbitration date. When comes time to pick a trial date, I have never set a case for trial earlier than a date agreed to by all sides. I have never denied an unopposed request for a trial continuance, and I rarely deny opposed requests. In short, I am a terrible fast-track judge because I do</p> |                    |

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|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response  |
|--|-------------|----------|-----------------------------|--|---|
|  |             |          |                             | <p>not "manage" my cases with a goal of reaching a resolution of the case faster than the parties themselves desire.</p> <p>Justice delayed is a bad thing, and the community as a whole has its own independent interest in the prompt resolution of civil matters. If someone wishes to assert that before fast-track California civil litigation was broken and needed fixing, I will not dispute them. But, from my experience, today's civil attorneys have internalized the fast-track way of doing things and do not need a judge to crack-the-whip over them. They particularly do not need a judge denying a continuance because he or she is trying to meet a statistical goal of some kind. Particularly a goal that pressures for the completion of trials within 12 months of filing.</p> <p>A suggestion: put a two-year moratorium on statistical goals for general civil cases. (Particularly any goal based on a time period of less than 24 months.) Continue to gather statistics. If the statistics reveal a real problem, put the goals back on. If not, continue to gather statistics and congratulate ourselves every year on how well we are doing.</p> <p>As for criminal cases, the last thing any appellate court wants to see is a record where a defense request for a continuance was denied by a court explicitly (or implicitly) attempting to meet a bureaucratic goal.</p> | <p>The Trial Delay Reduction Act requires the Judicial Council to adopt standards for the timely processing and disposition of civil and criminal cases. These standards are guidelines by which the progress of litigation in the trial courts may be measured. (Govt. Code, § 68603(a).)</p> <p>The requirement that the Judicial Council adopt standards applies to both civil and criminal cases. (Id.)</p> |

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|     | <b>Commentator</b>   | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Committee Response</b>                                       |
|-----|--|-----------------|------------------------------------|---|---|
|     |  |                 |                                    | The last thing any Judge wants to see is a headline saying a prosecution request for a continuance was denied because a Judge was attempting to meet a bureaucratic goal. No criminal Judge needs a rule to remind him or her that unnecessary continuances are a bad thing. Numerical goals for criminal cases can accomplish no good, and carry the potential to cause mischief.  |   |
| 68. | Mr. Peter A. Viri<br>Stockton, California  | A               | N                                  | No specific comment.  | No response required.   |
| 69. | Robert C. Von Bargen<br>Ryan, Datomi & Flores<br>Glendale, California  | A               | N                                  | Agreed without any specific comment.  | No response required.   |
| 70. | Mr. Richard B. Williams<br>Assistant Chief Counsel<br>California Department of<br>Transportation<br>Sacramento, California | A               | N                                  | This proposal would establish more realistic disposition time standards for unlimited civil cases. Strict application of the current standards can result in certain types of cases, particularly proceedings in eminent domain, being set for trial on early dates that do not allow a full evaluation of all the issues and on dates, which effectively conflict with recent amendments to the Eminent Domain Law (e.g., CCP sections 1258.220 and 1260.040). | The committee noted the commentator's support for the proposal. |
| 71. | Ms. Michelle Williams-Court<br>Deputy Director of Litigation<br>Bet Tzedek Legal Services<br>Los Angeles, California       | A               |                                    | I am pleased to support the proposed changes to the Rules of Court applying to Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a  | The committee noted the commentator's support for the proposal. |

**SP03-11****Trial Delay Reduction, Differential Case Management, and Case Disposition Time Standards (adopt Cal. Rules of Court, rule 204; amend rules 208 and 209; amend Cal. Stds of Jud.Admin., §§ 2 and 2.1; repeal §§ 2.3 and 2.4)**

|     | Commentator  | Position | Comment on behalf of group? | Comment  | Committee Response                |
|-----|--|----------|-----------------------------|--|-----------------------------------|
|     |  |          |                             | <p>need to allow for a degree of flexibility in the application of the deadlines and in the granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain instances result in injustice to litigants. It is important to provide a degree of latitude in administering Fast Track guidelines so that circumstances such as trial counsel's calendar conflicts or the fact that the nature and the extent plaintiff's injuries have not been fully determined might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious; however, the strategic addition of degree of flexibility as reflected in the proposed rule changes would better ensure fair and efficient case management in California.</p> <p>For this reason I support the proposed changes to the Rules of Court (SP03-11).</p> |                                   |
| 72. | Mr. David L. Winter<br>Moore, Winter et al<br>Glendale, California | AM       | N                           | <p>I personally believe that there should be two Case Management Conferences in most unlimited jurisdiction cases. The first should suggest a 12, 18, or 24-month process, with the second to follow in 90 days for a hard trial date thereafter. Setting a trial date 8 to 12 months away may not be realistic, especially as the court "books up" its own calendar. Just as attorneys should not "overbook" their calendars, neither should the court. In my opinion, trial dates should be set no more than 120 days away,</p>  | The committee noted the comments. |

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|     | Commentator  | Position | Comment on behalf of group? | Comment   | Committee Response  |
|-----|--|----------|-----------------------------|---|---|
|     |  |          |                             | <p>as counsel should have a far better view of whether a case can settle or must be tried.</p> <p>I would also like to see a statistical study of when cases are at-issue, that is when all parties have been served and appear. It is my impression that the courts are holding much tighter to the deadlines for disposition than they are to deadlines for bringing parties in. Thus, as plaintiffs delay bringing parties in, and courts hold to the 12-month guideline, defendants are foreclosed from pursuing motions for summary judgment because of the new notice requirements. Consequently, defendants are forced to incur increased costs in defending cases and cases can be pushed to trial that might be resolved quicker and less expensively, if defendants have the motion for summary judgment option reasonably available.</p> |   |
| 73. | Herbert W. Yanowitz<br>Litigation Section of the State Bar of California, Executive Committee<br>San Francisco, California | AM       | Y                           | <p>I am writing on behalf of the Executive Committee of the Litigation Section of the State Bar of California of which I am a member. The committee appreciates and commends the depth and thoroughness with which the Blue Ribbon Panel has tackled the problems in trial administration that affect the fair and effective operation of the civil justice system in California trial courts.</p> <p>We sincerely hope that the concepts of flexibility and the consideration of each case on its merits which permeate the Panel's proposals can be translated into</p>   | The committee considered the comments of the Executive Committee of the Litigation Section. |

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|  | Commentator | Position | Comment on behalf of group? | Comment   | Committee Response   |
|--|-------------|----------|-----------------------------|---|--|
|  |             |          |                             | <p>practice and can help dissolve the rigid mindset that has contributed to the current problems. Our major concern is that notwithstanding the emphasis and clarity of purpose expressed in the Report and carried forward into the various rule amendments, because of philosophical or temperamental predispositions, some of the same judges to whom the reforms are directed may not execute these reforms fully and properly.</p> <p>To effectuate the salutary efforts of the Panel, we wholeheartedly support the suggestions in page 11 of the Report that a vigorous educational program for judges be implemented promptly. Moreover, at least the thirteen-page Report should be circulated to the judiciary, and the Bar should be made aware of its existence. In our view, the Report is invaluable as background for citation in any applications or motions relating to case management and trial continuances.</p> <p>The Committee is concerned that the promulgation of case disposition data not be understood by any judges as batting averages vis-à-vis their colleagues in connection with pending cases. We hope to avoid the tyranny of statistics under which case management decisions are driven by numbers, not by principles. And the Report should expressly caution against the misuse of data.</p> <p>There are cases that reasonably cannot be brought to trial within two years. Lest some literal-minded judges</p> | <p>The committee noted the support for the educational program recommended by the Blue Ribbon Panel.</p> |

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|  | Commentator | Position | Comment on behalf of group? | Comment  | Committee Response  |
|--|-------------|----------|-----------------------------|--|---|
|  |             |          |                             | <p>unnecessarily force such cases to trial, the committee recommends that Rule 209(b)(1)(C) be amended to refer to a percentage less than 100 percent, possibly between 95 and 98 percent, and that rule 209 (b)(3) declare that the “goals” are “guidelines . . . for the disposition of all cases . . .” and “shall not be considered as deadlines.”</p> <p>Some committee members expressed concern about prejudice to defendants brought into a case somewhat late in the process and the impact of the time periods on summary judgments. A principal concern was with adequate time to prepare for and present summary judgments. Others felt that problems of a late entry into a case can be handled adequately by trial calendaring, severance, or continuances during the case management process by reference, inter alia, to proposed rules 212(e)(3), 212(j)(8)–(10) and (15), and 375(d)(5).</p> <p>You should also consider the problems raised when the parties execute conditional settlements which depend for their consummation upon certain conduct of one or more parties. Rather than continuing the cases, some courts have “ordered” dismissals without prejudice and the execution of tolling agreements against the running of Statutes of Limitations. This practice is fraught not only with the inconvenience and expense of starting anew, but with potential</p> | <p>Although there may be a small number of such cases, both the Blue Ribbon Panel and the committee recommended retaining the goal of 100 percent disposition of unlimited civil cases within two years. This goal is not rigid or inflexible. Both the rules and standards use the term "goals" to emphasize that these are guidelines, not mandatory times by which all applicable cases must be disposed of.</p> <p>The comments were noted.</p> <p>Amended rule 225 and the new Notice of Settlement form that will be adopted effective January 1, 2004 should reduce these problems. Also, it should be noted that the list of circumstances that excluded a case from the computation of case disposition time includes "the filing of a</p> |

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|-----|---|----------|-----------------------------|--|---|
|     |   |          |                             | problems about the effect of discovery taken in the initial action and the change in status or unavailability of witnesses in the interim. You should consider a further rule that pending the final disposition of a conditional settlement, the action should not be dismissed. Yet, while the settlement conditions are pending, the case should not show up in any statistics as an open case.   | notice of conditional settlement." (See amended Stds. of Jud. Admin., § 2.1(n)(1)(A).) Hence, it is unnecessary for a court to dismiss a conditionally settled case just to achieve the time disposition goals. |
| 74. | Mr. Steven Zwick<br>Law Office of Steven Zwick<br>Mission Viejo, California | A        | N                           | <p>I am pleased to support the proposed changes to the Rules of Court applying to Trial Setting and Civil Case Management (SP03-09), Motions and Applications for Continuance of Trial (SP03-10), and Trial Delay Reduction and Case Disposition Time Standards (SP03-11). While Fast Track case management makes an important contribution to the efficient administration of our courts and prevents unnecessary trial delays, there is a need to allow for a degree of flexibility in the application of the deadlines and granting of continuances.</p> <p>Rigid adherence to deadlines and the refusal to grant a continuance can in certain circumstances result in great injustice to litigants. It is important to provide a reasonable degree of latitude in administering Fast Track guidelines so circumstances such as trial counsel's calendar conflicts might be taken into consideration. The overall purpose of Fast Track guidelines is meritorious. However, the degree of flexibility as reflected in the proposed rule changes</p> | The committee noted the commentator's support for the proposal.   |

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|  | <b>Commentator</b> | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>   | <b>Committee Response</b> |
|--|--------------------|-----------------|------------------------------------|--|---------------------------|
|  |                    |                 |                                    | would better ensure fair and efficient case management in California.<br><br>I am pleased to support the proposed changes to the Rules of Court (SP03-11). |                           |